

THE
D V T I E S O F
Constables, Borshol-
ders, Tythingmen, and such
other low and Lay Ministers
of the Peace.

Whereunto bee adioyned the
Seuerall offices of Church-Ministers, and
Church-wardens, and Ouerseers for the Poore,
Surueyors of the High-ways, and Distribu-
tors of the prouision against noysome
Fowle and Vermine.

First collected by W I L. L A M B A R D of Lin-
colnes Inne, G E N T.

And now carefully corrected, and profitably augmented
to this present yeare. 1633.

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IOHN MORE Esquire.

THE O.V.I.E.S. CONSTITUTIONS, BY

THE VENERABLE BROTHERS OF THE
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The duties of Constables,
Borsholders, Tythingmen, and
such other low Ministers
of the Peace.



Understanding by sume The Preface
dry friends of mine,
that many well dispo-
sed men doe earnestly
wish, that some one
short and plaine colle-
ction might be made of
the duties of High Con-

stables, petite Constables, Borsholders, Ty-
thingmen, Headborowes, and such like in-
feriour Ministers of the Kings Maie-
sties Peace; to the end that when any of
them should be called to any of the said
offices (or the like) they might the better
behaue themselves in doing the same: I
haue thought it a thing worthy the labo-
r, to send abroad amongst them this little
Treatise, which I haue drauone to satis-
fie in some part their honest desire:
heartily praying vnto God, that as their
knowledge may be increased in the rea-
ding hereof, so also their diligence may

be amended in the practice of the same, to the setting forth of the glory of God, and to the advancement of the Kings Maies-ties service in this behalfe.

The
division
of this
worke.

2 And because I purpose (by the helpe of God) to make this worke so short, and so plaine withall, as the matter thereof it selfe will suffer me, and as the vnderstanding of vnlearned men doth require: I will first speake somewhat, both of the sundrie names and beginnings of these officers, and then afterward I will goe in hand with the parts of their seuerall duties.

The
names
of the
officers.

3 The sundry names of Constables, or High Constables, that bee of Laths, Rapes, Wapentakes, Hundreds, and Franchises, and the diuers names also of Constables, pety Constables, Tything-men, Borholders, Borowheads, Headborows, Chiefe pledges, and such other (if there bee any) that beare office in towne, parishes, hamlets, tythings, or barolues (for the Constables of Castles, otherwise called Castellans, and such others, I meane not to entreat) are all (in effect) but two, that is to say, Constables and Borholders: for these two words doe containe as much as all the rest of those names, and to those two all the rest of them may bee reduced: and therefore in speaking seuerally of those two, I will passe along and touch all the rest also.

4 The name Constable, is made (as Constables name: I have read) of two English words put together, namely, cunning (or crying) and staple, which doe signifie; the stay (or hold) of the King. For by the ancient custome of the Realme, there is a great Officer called the Constable of England, who by meanes of the high authority that he had, was a principall stay vnto the Kings gouernment, and this man had iurisdiction and authority in deedes of Armes, and matters of warre, both within & without the Realme. Out of which office, this lower Constableshep was at the first drawne and fetched, and is (as it were) a very finger of that hand. For the statute of Winchest. which was made in the time of King Edw. the first, and by which these lower Constables of Hundreds and Franchises were first ordained, doth (among other things) appoint, that for the better keeping of the Peace, two Constables in euery Hundred and Franchise, should make the view of Armour.

So then, the name of Constable in a Hundred or Franchise, doth meane that he is an officer that supporteth the Kings Maiestie in the maintenance of his peace, within the precinct of his Hundred or Franchise; and he is many times called the High Constable, in comparison of the constables, or petty constables, that be in the townes or parishes within his Hundred or Franchise: whose part

31.R.2.
ca.12.

13.E.1.

6 The duties of Constables,

it likewise is, to maintaine the peace within the severall limits of their owne townes or parishes.

**Boz-
holders
name.**

5 As touching Bozholder (which is the other generall name, & doth containe within it the meaning of Tythingmen, Borrowheads, Headborowes, Thirdborowes, and Chiefe Pledges) that also is made up of these two English words, Borhes and Ealder, of the which, Borhes betokeneth Pledges, and Ealder signifieth the Chiefe, the Head, or the Ealder: and Borhealder in one word doth meane the chiefe (or head) of the sureties, or pledges.

**His two
offices.**

6 But now, that you may the better vnderstand what is meant by this, you must further know, that euery of these Bozholders, Tythingmen, Borowheads, Headborowes, Thirdborowes, and Chiefe Pledges, hath two severall offices at this day: the one being his ancient and first office, and the other his later made office.

**His first
office.**

7 His first office began thus: By the ancient lawes of this Realme (before the comming of King William the Conquerour) it was ordained for the more sure keeping of the Peace, and for the better repressing of theeves and robbers, that all free born men should cast themselves into severall companies, by ten in each company: and that euery of those ten men of the company, should bee surety
and

Archia
nomia.

and pledge for the forthcomming of his fellowes: so that if any harme were done by any of these ten against the Peace, then the rest of the ten should bee amerced, if hee of their company that did the harme should sipe, and were not forthcomming to answer to that wherewith he should be charged.

And for this cause, these companies bee yet in some places of England (and namely with vs in Kent) called Borows, of the said word Borhes, Pledges, or Sureties; albeit in the westerne parts of this realme they be commonly named Tythings, because they containe (as I told you) the number of ten men with their families. And even as ten times ten doe make an hundred; so, because it was then also appointed that ten of these companies should at certain times meet together for their matters of greater weight, therefore that generall assembly (or Court) was (and yet is) called a Hundred.

Furthermore, it was then also ordained, that if any man were of so euill credit that hee could not get himselfe to be receiued into one of those Tythings or Borows; then hee should bee shut vp in prison, as a man vnworthy to liue at liberty, among men abroad.

8 Now whereas euery of these Tythings (or Borows) did vse to make choyce of one man among themselves, to speak,

Ty-
thing-
man,
Heads-
borow,
&c.

8 The duties of Constables,

and to do in the name of them all: he was therefore in some places called the Tythingman, in other places the Boroeg Elder (whom we now call Borsholder) in other places the Borohead, or Headborow, & in some other places the Chiefe Pledge, which last name doth plainly expound the other three that are next before it: for Head or Elder of the Boroegs, and Chiefe of the pledges, be all one: and in some shires, where every Thirdborow hath a Constable, there the Officers of the other two be called Thirdborowes.

Old or-
ders in
ty-
things

9. Moreover in these Tythings (or Boroegs) sundry good orders were obserued: & amongst others, first, that every man of the age of xii. yeares should be sworne to the King: then that no man should bee suffered to dwell in any towne or place vnlesse hee were also receiued into some such suretiship & pledge as is aforesaid. Thirdly, that if any of these pledges were imprisoned for his offence, then he ought not to bee deliuered without the assent of the rest of his pledges. Again, that no man might remoue out of one Tything (or Boroeg) to dwell in another, without lawfull warrant in that behalfe. Lastly, that every of these pledges should yearely bee presented and brought forth by their Chiefe pledge at a general assembly for that purpose, which we yet in remembrance therof doe call the View of Frankpledge, or the Leet Court.

Tein.
Kanc.

Vid. 45.
Ed. 3. 27.
Et Kite.
fol. 12.

10 Hitherto

Borsholders, Tythingmen, &c. 9

10 Hitherto I haue opened the ancient office of the *Borsholder*, *Tythingmen*, and the rest, whereof also there is yet to this day some shew or remnant in our *Leetes* (or *Law* dayes) but if the verie substance thereof were thoroughly performed (as I know no let, but that by law it may) then should the peace of the land bee much better maintained than now it is.

As touching the latter office that these *Borsholders*, *Tythingmen*, *Headborowes*, *Boroheads*, *Thirdboroes*, and *Chiefe Pledges* haue, it is in manner all one with the office of a Constable of a towne or parish, which is commonly named a petite Constable, or vnder Constable, because hee is a small Constable in respect of the Constable of the Hundred, within whose limit hee is. For as about the beginning of the reigne of King E. 3. petty Constables were deuised in townes and parishes for the aid of the Constables of the Hundred: so of latter times also *Borsholders*, *Tythingmen*, *Headborowes*, & such like haue bin vled as petite Constables, within their owne *Borowes* and *Tythings*. And yet not so vniuersally, but that some of them haue at this day none other but their old Office. For in some of the *Westerne* parts of *England* you shall see, that where there bee many *Tythingmen* in one parish, there onely one of them is a Constable for the King,

This latter office.

10 The duties of Constables,

King, and the rest doe serue but as the ancient Tythingmen did. Now therefore hauing spoken of the names and beginnings of these inferiour Officers of the Peace, let vs also come to the parts of their common and seuerall duties.

Division
of their
office.

II Forasmuch as a great and chiefe part of the duty, both of these high Constables of Laths, Rapes, wapentakes, Hundreds, and Franchises: and also of these Constables, petie Constables, Tythingmen, Borholders, Borowheads, Headborowes, Thirdborowes, Chiefepledges, and such like Ministers, by whatsoever other names they be called in any Towns, Parishes, Tythings, Borowes, Hamlets, or other places of the Realme, both consist in the maintenance of the Kings Maiesties peace, wherein (as also in some other points) the power of them all is alike, and but one, within their seuerall limits & places of authoritie: therefore I thinke it good to shew first, what their common and equall duty is in matters concerning the peace, either by their owne authoritie, or vnder the authoritie of others: then afterward to declare, what their common and like duty is in some other things not concerning the peace: lastly, to open those things wherein they haue a distinct and seuerall duty, one from another of them.

12 The Conseruation (or maintenance) of the peace standeth in three things:

things : that is to say ; first, in foreseeing that nothing be done, that tendeth either directly, or by meanes, to the breach of the peace : secondly, in quieting or pacifying those that are occupied in the breach of the peace : and thirdly, in punishing such as haue already broken the peace.

Their
office
concer-
ning the
Peace.

And here, lest any man should bee deceived in not vnderstanding what is meant by these words, The breach of the peace, hee must first of all know, that by the breach of the peace is vnderstood, not onely that fighting which wee commonly call the breach of the peace; but also that euery murther, rape, manslaughter, and felony whatsoeuer, and euery affraying (or putting in feare) of the Kings people, whether it be by vnlawful wearing of Armour, or by assembling of people to doe any vnlawfull act, are taken to be disturbances or breaches of the Peace.

What
is the
breach
of the
Peace.

13. H. 7.
10. Cur.

13 But now, for the better preuenting that nothing be done against the Peace, any of these Officers aforesaid may take (or arrest) suspected persons which walke in the night, & sleep in the day : or which do haunt any house, where is suspition of bawdry, and they may carry them before a Iustice of the Peace, to find sureties of their good behauiour. And if any such Officer bee not of sufficient strength to doe that alone, then may hee take meet aid
of

To pre-
uent
things
against
the
Peace.

12 The duties of Constables,

of his neighbours thereto, & they, in such cases be compellable to help & assist him.

Any of these Officers may also arrest such strange persons as do walk abroad in the night season, and for that cause the said statute of Winchest. did ordaine, that night watch should be kept pærely, from the feast of the Ascension vntill Michaelmas, by six men at euery gate of euery Citie, by twelue men in euery Borowgh towne, and in euery other towne by six men, or foure men, according to the number of inhabitants in the towne, all the night long, from Sun setting to Sun rising; so that if any stranger did passe, hee should bee arrested till the morning, & then set at large (if no suspition were found of him) but if any suspition fell out against him, then he should be imprisoned, till he might be lawfully deliuered. And of these watches the officers before named haue the charge within the limits (or places) of their authorities, as the Constable in his towne, the Borholder in his borow, & the high Constable within all his Hundred: and these Officers ought to see these Watches duly set and kept, and ought also to cause Huy & Cry to bee raised after such as will not obey the arrest of such watchmen.

Againe, if any person whatsoever (except the Kings seruants and Minister in his presence, or in executing his precepts, or other offices, or such as shall

Fit. in
Iust. del.
P. 171. 5.
E. 1. 3. 14.
13. Ed.

21. E.
Reg.

17. R.

Barr.
202.
Fitz.
22. f.
35. B.

Sta. Nor.
2. E. 3.
ca. 3.

assist

assist them : and except it bee vpon Hue and Cry made to keepe the peace, and that in places where acts against the peace doe happen) shall be so bold, as to goe, or ride armed by night or by day, in faires, Markets, or any other places : then any Constable, or any other of the said Officers may take such armour from him for the Kings vse, and may also commit him to the Gaole. And therefore it shall be good in this behalfe for these Officers to stay and arrest all such persons as they shall finde to carry Dagges or Pistols, or to bee apparelled with priue coats, or doublets : as by the Proclamation (made in the xxi. yeare of the reigne of the late Queene Eliz.) they are specially commanded.

Furthermore, if any great assembly or rumour of people bee made in manner of insurrection, then the Sheriffs, Constables, & these said other Ministers, hauing knowledge thereof, ought to goe with the strength of the Countie, and to set themselves against it, and ought also to take and imprison such offenders.

Lastly, if any man doe threaten to kill another, and he which is so threatned do pray any of these Officers to arrest the other to find sureties of the Peace : then may such an Officer arrest him to finde such surety before a Justice of the Peace, and may also carry him to prison, if hee refuse to find it; But if he yeld to goe, it shall

21. El.
Reg.

17. R. 2. 8

Barre

202. ca

Fitz.

22. f. d. 4.

35. Bria.

Nor.

3.

14 The duties of Constables,

shall be good to take the party threated, to the Justice with him.

To pa-
cifie and
punish
the
breach
of the
Peace.

14 Thus much I haue spoken of those things which do bend towards the breach of the peace: but now I will come neerer to the breach it selfe, and withall to the pacifying and punishing of the same.

If therefore a Constable, or any other of the said officers shall see any men going about to break the peace, as by vsing hot words, by which an Affray is like to grow: then ought such Officers to command those persons to auoid vpon paine of imprisonment: and if they will not depart, but shall draw weapon, or giue any blow, then ought he to doe his best to depart them, and to keep them asunder: and hee may (for the purpose) both vse his owne weapon, and may also call others to assist him. In which doing, if any such Officer, or other person comming on his part doe take hurt, he shall haue good remedy by action against him that did the hurt: but if any of them that made the Affray bee hurt by such officer, or by any of his company, then such a hurt person hath no remedy at all for it.

And if hee that maketh an Affray doe flye into a house when such an officer commeth to arrest him: then may that officer breake open the doores to take him: and if he that made the Affray, doe flye from thence also, yet may the officer follow him, and in fresh suit take him, though

3.H.7.10
21.H.7.
21.

13.Ed.4.
9.

Pitt.1
38.E.
5.&
L.aff.

though it bee in another Shire or County.

So, if two men bee fighting together in a house (the doores being shut) yet may such an officer breake open the doores to cause the peace to bee kept, though none of the parties haue taken hurt. And in both these cases such an officer may carry them before a Justice of the Peace to find surety for the peace; because they haue broken the peace already, and are meet to bee bound that they shall not breake it againe.

Fit. 172.

38. E. 2.

5. & 12.

L. ass. 36.

But if any of the parties to an Affray haue receiued any dangerous hurt, then ought such officer to arrest him that did the hurt, and to carry him to the Goale, there to remaine till he find surety to appeare at the next Goale Delivery: otherwise, hee may with lesse labour carry him to a Justice of the Peace, or to a Coroner, who ought to take order for such surety, because the fact may fall out to be Felony, if so be that hee which was hurt doe happen to die within one yeare and a day next following such hurt vnto him.

7. 10.

1. 7.

Ed. 4. 7. 6.

And as these Officers ought to arrest those that do make assault vpon any private person; so also may they arrest any such as shall make assault (or Affray) vpon themselves whilest they bee in doing their offices: and may for that purpose both lawfully defend themselves, and also

16 The duties of Constables,

also take the offenders, & commit them to the Goale, or carry them to a Justice of the Peace, for the finding of such surety as is aforesaid.

But if one do assault a man in or nigh the high way to rob him, and bee taken by the true man, or by any other, and be brought to the Constable, or such other Officer of the place: then ought such Officer, not onely to take him to his ward, but also to carry him before a Justice of peace to cause him to giue surety for his Good abearing.

So, if any man doe suspect another of Murder or Felony, and doe declare the same to any such Officer of the Peace, then such Officer may arrest the suspected person, and he shall doe well to carry him to a Justice of the Peace together with him that doth suspect him, to the end that they both may be examined as appertaineth. Yea, any of these said Officers may search within the limit of his authority for any persons suspected of Felony: for it is a chiefe part of their office to repressle Felons.

And therfore any of these Officers may (of his owne authority) arrest one that is indited of Felony: So if the common voice and fame be, that A. B. hath done a felony, that is, sufficient cause for any of these Officers (that shall thereof suspect him) to arrest him for it.

And if any man shall flie vpon felonie,
it

Barre
101.
Fitzh.

5.B.c
17.B.

2.Ed

5.H.
5.

is the Office of the Constable of the towne, or of any of these other officers there, to seise his goods, and to kepe them safely: for he is to answer for the losse or impairing of them, and therefore it is meet that he doe it by Inuentory taken in the presence and by the testimony of the honest neighbours.

And I like well of their opinion, which doe hold, that if information be given to any such Officer, that a man & a woman bee in adultery or fornication together, then the officer may take company with him, and that if he finde them so, he may carry them to prison.

But this is to be marked, that in the cases before, and such like, where such an officer hath arrested, or hath in his ward any offendour that ought to bee carried to the Goale, there such an officer is not bound forthwith to carry him, but may well for a reasonable time keepe him in the Stockes, vntill that conuenient provision of strength may bee made to conuey him safe thither. And when hee shall bring such offendour to the Goale, then ought the Goaler to receiue the same freely, without taking any thing of the Officer for it.

Is Hitherto (as you see) I haue spoken of the Constable, and of these other Officers so farre onely as they haue authority by their owne offices, without any commandement from others. But foras-
 B much

Ser.
 uing of
 precepts

much as a great part of their dutie concerning the Peace, resteth in the making of due execution of the precepts of higher Officers, and especially of the Iustices of the Peace, who be (as it were) immediately set ouer them, let vs also see after what manner these Constables, and other the said inferiour Ministers of the Peace, ought to behaue themselves in that behalfe.

Pre-
cepts.

Albeit then, that the said Officers bee subiect to the commandements of the Iustices of Goale deliuerie, and of Ouer and Terminer, and of some higher Iustices, yea, & to the precepts of Coroners also, and of other Officers in some certaine cases; yet because most commonly they are called vpon by the Iustices of peace, they ought specially to shew themselves obedient to their Precepts, who (as it may appeare by some old Presidents) haue authority to remoue insufficient Constables and Borsholders, and to substitute able persons in their place. Neither ought these Officers to dispute whether their commandements bee grounded vpon sufficient authoritie or no: as knowing that although a Iustice of the Peace (which is a Iudge of Record) should direct a Warrant beyond his authority to a Constable, or one or other of the said Officers, yet shall such Officer be holden excused for executing the same, howsoever that Iustice of Peace

14. H. 8.
cap. 18.
21. H. 7.
22.

Peace himselfe bee blamed for it.

If therefore a warrant of the Peace or good abearing happen to bee directed to any of these said Officers, then ought he with all speed and secrecie to finde out the partie: and then also may he lay his hands upon him, and shew him the matter, & to require him in the Kings name to goe with him, to put in surety according to the warrant. And this if the partie shall refuse to doe, then ought such Officer forthwith to arrest him, and to conuey him to prison, without carrying him to any Justice: in which doing, if the party shall offer any resistance, or shall seeke to escape, then also may such Officer iustifie the beating or hurting of him.

But if the party shall yeld to goe and giue Surety, and yet will not goe to such Justice as made out the Warrant, but to some other Justice, then ought such Officer to giue him that liberty, so that it be not farre out of the Limit: for else so great trauaile might follow upon the Officer, as rather he, than the offender, might seeme to be punished by it.

And here the Officer must take regard and consider, whether the Warrant doe come directly from the mere authority of the Justices of Peace, or else bee grounded upon a writ of Supplicavit sent downe from higher authority (which difference ought to appeare plainly in all warrants

warrants that bee well & orderly made.) And if the Warrant bee grounded vpon such a writ, then may such Officer compell the partie to goe to the very same Justice or Iustices of Peace that made out the Warrant, and otherwise he may carry him to prison, as is said before.

Neither is it requisite that such an Officer should dance after the party (as many vse to doe) vntill hee can finde out sureties: but he may lawfully keep him, vntill that hee can get sureties to come vnto him: the ignorance of which point is the cause both that many an euill man escapeth, and many an honest Officer is punished for it.

But here it hapneth many times, that the party (hearing that such a Warrant is granted against him) offereth himselfe with sureties for that cause vnto some other Justice of Peace, or findeth such surety in some of the Courts at Westminster, and so hath a Superedeas ready to shew such Officer as cometh to him with a Warrant as is aforesaid. Now, if that be so, then is the Officer discharged thereby, and ought not any further to molest the partie; but yet it shall bee good, that such Officer doe keepe the Superedeas for his better discharge, and shew it to the Justice from whom hee receiued the commandement of service, lest otherwise hee be called to account for not seruing the Warrant that

that was sent vnto him.

22. Jac. 8.

And here likewise it is to be noted, that now by a statute (made in the one and twentieth yere of the raigne of our late Soueraigne Lord King James) all such writs of Superfedeas are void, and of none effect, vnlesse the Processe of the Peace, or good behauiour (vpon which such Superfedeas is grounded (bee granted vpon motion in open Court. first made, and vpon such sufficient sureties, as shall appeare to the Judge or Judges of the same Court vpon oath to be assessed at five pounds lands, or ten pounds goods in the Subsidy booke at the least, which oathes, and the names of such sureties, with the places of their abode, and where they stand so assessed in the Subsidy bookes shall bee entred and remaine of record in the same Court: And vnlesse it shall also appeare vnto the same Judge or Judges, from whom such Superfedeas is desired, That the processe of the Peace or good behauiour is prosecuted against him or them (desiring such Superfedeas) Bona fide, by some partie griued in that Court, out of which such Superfedeas is desired, to bee so awarded and directed.

lib.

f. 95.

non.

1. 288.

8.

Fitzh.

If a Warrant bee directed to a Constable or such other Officer, to arrest one that is indited of Felony, then may such Officer iustifie the killing of such a party, if it be so, that hee cannot otherwise take

take him : or if so be that he resist or flie when he is taken.

Finally, the Constable, or such other of the said Officers, having arrested any to be conveyed to the Gaole, must take good heed, that he doe not willingly or negligently suffer such partie to escape from him. For if the arrest were for Felony, then by a willing escape, the officer himselfe becommeth a Felon also. And of whatsoever other kinde the offence be, if the officer doe by his will or negligence suffer the party to escape from him, hee shall bee fined for it, according to the quantity of his fault by the discretion of those that shall bee Judges of it. And lest any such Officer should flatter himselfe, in thinking that hee may passe through with some easie Fine : I let him know that the Judges of his fault may set his Fine equall with the value of all his goods, if in their discretions his default doe so require.

The
equall
duty of
these
Officers
in
matters
besides
the
Peace.

16 Thus haue I performed the first part of my promise, and haue shewed what is the equall and like duty of euey of the said Officers in matters concerning the Peace, both by their owne authoritie, and also in doing the commandements of the Iustices of Peace. Now therefore I must goe forward to the second part of my purpose, and am to declare their like dutie in other points of seruice that doe not concerne the Peace,
for

for equall power is indifferently giuen to any of those Officers by some Statutes of the Realme, whereof those that follow bee the chiefe and principall.

17 All Constables and other the said Officers, ought to be attendant, ayding, and assisting to the Iustices of peace, for the execution of all and euery the Acts (made in, or before the Parliament, holden in the 33. yere of the reigne of King Henry the eighth) concerning Retainers, giuing of Liueries, maintenance, embracery, bowstaues, archery, vnlawfull games, forestallers, regrators, vitaile, Vitailers and Inholders, or any of them vpon paine that the said Constables and other the said Officers shall make such fines, as by two of the said Iustices of Peace shall be assessed.

Attendant for the execution of Statutes,

18 All Constables, and other the said officers within London, or within seven miles thereof, ought (vpon request made) to aid and assist the President of the College of the Physitians of London, and other persons authorized for the due execution of the Statutes made concerning Physitians, Apothecaries, and Surgeons.

Physicians.

19 If any person shall (without lawfull bargaine) puruiew or take any thing of any of the Kings Liege people to the vse of any (other than the King and his house) and thereof notice be giuen to the Constable, or such other Officer of the

Purcuers.

34. H. 8.
ca. 10. &
37. H. 8.
cap. 7.

But note
that now
all Sta-
tutes that
concerne
giuing of
liueries
are repea-
ed.
C. 4.

14. H. 8.

11. Hap. 4. 5.

24. 1. H. 8.

Stamap. 2.

1. Ma. par.

1. cap. 9.

3. H. 8.

1. 14.

place, then such Officer ought (vnder the paine of xx. pounds) to arrest such taker, and to carry him to the next prison.

No Purueyour of the King ought to take any horse, or cart, but by the deliue-
ry of the Maior, Bailiffe, Constable, or such other Officer of the place whence that taking shall be.

Corne ought to be taken for the Kings house by striked measure of eight bushels to the quarter, according as is vled throughout the land: and the takers of all things to bee taken for the Kings house, shall make their puruepance by the very value thereof, by the view of the Constable or other such Officers, and by appraisment vnder oath of foure other good men of the towne, where the taking shall be: and such takings shall be made without driving the praisors by compulsion, menacing, or other villany, to set any other price than their oath will, and as commonly runneth in the next markets.

Takers, undertakers, their deputies or seruants, shall not take any Beues, Weathers, Lambs, Calues, or any kind of salt fish, or any kind of graine, or any Butter in any vessels, or Cheese, Bacon Conies, Pigs, Geese, Capons, or Hens, but by Commission, and a Blanke thereto for that shire annexed: in which Blanke the said seuerall things to be taken, and the prices of them shalbe witten; and to which Blanke the high Constable, petty Con-

28.H.
sta.2.c25.E.
cap.1.
36.E.
sta.2.c10.H.
cap.20.H.
cap.2.&
& M28.H.
cap.1

Constable, or Headborough of the place where any such taking shall bee, ought to subscribe his name or signe manuel. And such taker ought then also to make a brieife or ducket in writing subscribed with his name containing euery of the said things so taken in euery place: and ought then also (vnder the pain of an hundred marks) to deliuer the same to the said high Constable, petty Constable, or Headborough, who also ought to deliuer it ouer to the Iustices of the peace at their next generall Sessions within the County.

20 In the takings for the Kings house, Tailles (or Indentures) ought to bee made and scaled betweene the taker and the owner (in the presence of the Constable, or such other officer, and the praisors of the place) by which tailles (or Indentures) satisfaction ought to bee made to the owner for his things so taken.

21 If any Taker will make puruepāce of any things (not exceeding the value of forty shillings) and make not ready payment in hand therefore, it is lawfull for the owner to retaine the thing so taken, & to resist such puruepance: and the Constable, Tythingman, or Chiefe Pledge of the place (being thereto required by the owner) ought to aid and assist such owner in making such resistance, vnder paine to yeld vnto him the value of the thing taken, and his double damages.

22 All Constables and other the Officers

28.H.6.
sta.2.

25.E.
cap.1.
36.E.
sta.2.

19.E.3.
cap.1.

20.H.6.
cap.8.

2.&
& M

28.H.6.
cap.15.

Son?
diers.

26 The duties of Constables,

cers abovesaid, of the Parish or place, where any of the Kings souldiers beyond the Seas being mustered of Record shall happen to arrive, may arrest and stay such souldiers, till it be inquired, whether they bee lawfully departed from their captaines or no.

Coro-
ners.

23 All Constables and other the said Officers, must be attendant upon Coroners, for the abiuring and conueying of such persons as shall take the Churchyard as a sanctuarie for safeguard of their liues, by occasion of any Felony by them done.

Char-
ges of
conuey-
ing Of-
fendours,
to the
Goale.

24 By warrant of such Justice of Peace as committed an offendour to the common Goale, the Constable of the Hundred, or the Constable or Tythingman of the Tything or Township, where such offendour dwells, from whence he was committed, or where he hath any goods, may sell such goods of the said Offendour as by the discretion of the said Justice will pay the charges of his conueying to the said Goale: the Appraisement to bee made by foure of the honest Inhabitants of the Parish or Tything where such goods shall bee, and the overplus of the mony made therof to be delivered to the party to whom the goods shall belong: and if such offendour haue no goods, an indifferent tax therefore shall bee made by the Constables and Churchwardens, and two or three other the

21. H.

cap. 2.

22. H.

cap. 14.

22. H.

cap. 3.

But n

all St

Quarie

are ex

tin'd b

21. Ia

3. Jac.

cap. 14. Ia

cap.

the honest Inhabitants of the Parish, Township, or Tything, where such offenders shall be taken, and in default of them by foure of the principall Inhabitants of the said Parish, Township, or Tything: which taxation being allowed under the hand of a Justice of Peace, if any so taxed refuse to pay the same taxation, by Warrant of such Justice of Peace, the Constable, Tythingman, or other Officer there, may distraine and sell (by such appraisement as aforesaid) the goods of such refuser; and the overplus of money come by the sale thereof to be deliuered to the owner.

25 The Justices of Peace of every county twice in a yere, and oftner if occasion bee, are to assemble and meet together for the better execution of the statute made 7. Iacobi Regis, cap. 4. against Rogues and Vagabonds: And foure or five daies before such assembly the same Justices, or the more part of them may command the Constables and Tythingmen of every Hundred, Towne, Parish, Village and Hamlet, with the assistance of sufficient men, to make a generall priue search within their severall limits for Rogues, Vagabonds, wandring and idle persons; and such as they haue found and apprehended in the said search, they are to bring before the said Justices at their said Assembly, there to bee examined of their idle life, punished, or otherwise

Rogues
& Beg-
gers.

21. H.
cap. 2.
22. H.
cap. 14.
22. H.
cap. 3.
But in
all Statutes
Quarantaine
are ex-
tinct
21. Iac.
3. Iac.
cap. 19. Iac.
cap. 4.

wise by warrant of such Iustices, sent to the house of Correction within the said County, there to be deliuered to the Master of such house or his deputy to bee set to labour and worke. At which dayes of Assembly the said Constables and Tythingmen must appeare in their severall diuisions before the said Iustices, and giue account in writing, and vnder the hand of the Minister of the Parish, what Rogues, Vagabonds, and wandring persons they haue apprehended both in the same search, and betweene euery such assemblies, and how many haue been by them punished, or sent to the houses of Correction: which if the said Constables or Tythingmen neglect to performe, or to conuey safely all such rogues and idle persons at the charge of the Hundred, as by the Iustices of Peaces warrants are sent vnto the houses of correction; they doe therby forfeit such Fines as the said Iustices shall thinke fit, not exceeding 40.s. for euery offence.

All these things heretofore rehearsed, whether they concerne the preservation of the Peace, or any other matter besides the Peace, may and ought to bee done and executed indifferently (as I thinke) by any of the said Officers within the precinct of his authoritie: that is to say, as well by the High Constable of the whole Hundred or Franchise within his Hundred or Franchise, as by the Constable,
petic

pety Constable, Tythingman, Borsholder, Borohead, Headborow, Thirdborow, or Chiefe Pledge, within his Towne, Parish, Tything, Borow, or Hamlet, and so, as none of them hath more power of office therein than the other, although some of them haue larger limit of place than the rest. But now I am come to such things, as doe seuerally belong to these Officers, so as the other may not meddle therewith, (which is the third part of my promise) and therefore I will take that in hand also ; and because the Constable of the Hundred or Franchise, is the greatest of these Officers, both in respect of his larger precinct of place, and also of the higher trust that is committed to him ; I will begin at him ; who, as he is not by and by set alone, but is for some matters no further authorized than some other of the said officers, so I will first begin at those, and then come to the rest that belong onely to himselfe.

26 The money appointed to be leuied by the Churchwardens of euery Parish each Sunday, for the reliefe of prisoners in the Coale, ought (vnder the paine of v.li.) to be paid by them once euery quarter of a yeare to the High Constables, or head officers of euery Hundred, Kiding,wapentake, Towne, or Parish: and the said high Constables, or head Officers ought (vnder the paine of s. pounds) to pay ouer the same money so to them paid

30 The duties of Constables,

paid at the next Quarter Sessions of the Peace, to the person appointed by the Justices of Peace to receive the same.

It seemeth to mee, that in this case next aboute, the words high Constables, high Tythingmen, and head officers, doe exclude petty Constables, Borsholders, and such like to meddle therein: because none are called high, or head, but in comparison of Low and Base. Now therefore I will speake of matters concerning the high Constable of the Hundred alone.

High
Constable
alone.
Petty
Sessions.

27 High Constables of Hundreds in all such Shires, where petty Sessions for servants and labourers (otherwise called statute Sessions) were vsed to bee kept before the first day of the Parliament holden in the fifth yeare of the Reigne of our late gracious Q. Elizabeth, may yet still hold their said Sessions, so that nothing be done in them repugnant to the Statute of labourers and servants made in the same Parliament. 5. El.

Statutes
of
High-
wayes.

28 The Constables of hundreds and of Franchises, ought to make presentment to the Justices of Peace, and to all other Justices thereto assigned, of the defaults of Watches, & the defaults of the Kings Highwayes not enlarged, so as no ditches, underwood, or bushes be within two hundred foot on euery side of the same: and also of such as lodge strangers in vp-landish Townes, for whom they will not answer. 13. E.
2a.
ton.

20 Cloth

20 Clothworkers ought to pay the wages of their Carders and other work-folks in lawfull money and not in pins, girdles, or such other things: & to deliuer their wools by faithfull deliuey and due weight vnto them to be wrought, vpon paine of forfeiting the treble of their wages not so paid, and 6. pence for euery deliuey of such excessive weight. And the said Workfolks ought to doe their occupations duly, vpon paine of double damages to the party grieved, And euery Constable of the Hundred may heare & determine the complaints aforesaid by examination of the parties, and may commit to the Gaale such as refuse to pay the said Workfolks.

30 Ekreats indented ought to bee made by the Clerkes of the peace, and by Sheri-wards of Leets, of all forfeitures rising in the Sessions of the peace, or in Leets, vpon the statutes of high waies: of which Ekreats one part ought to be deliuered pererly within 6. weekes after Michaelmas to the Bailiffe or high Constable of the Hundred, Lath, or Mapentake, wherein the default was committed, & the other part to the Constable & Churchwardens of the Parish in which the default was made, to the intent, that such Bailiffe or chiefe Constable may thereby leup by distresse the same forfeitures, or the double thereof, (if no distresse can be found, or if such forfeitures bee not paid within 20. dayes

Cloth-
ers.

High-
wayes.

daies after a lawfull demand of the same by the said Officer) and to the intent also that the said Constable and Churchwardens of the Parish may thereby call the said Bailiffe or high Constable to account before two Justices of the Peace (the one being of the Quorum) between the first day of March and the last of April yearly for the said forfeitures, which ought by the said Churchwardens to be bestowed on the high wayes in their Parish. And upon such account, every such Bailiffe or High Constable shall have for his paines viii. d. of every pound levied and paid by him, and may also retaine xii. d. for the fee of the Clerke of the Peace, or Steward of the Læet, for every such Estreat by any of them delivered, as is aforesaid.

Mar-
shalsey &
Kings
Bench.

31 The high Constable (in whose li- 41.
mit the Parish is situate) must pay at cap.
every Quarter Session to one of the
Treasurers of the Shire, such money as
the Churchwardens there have paid to
him for the prisoners in the Marshalsey
and Kings Bench, upon paine of xx. s. to
be lost for every default, 43. Eliz. cap. 3.
1. Iac. cap. 25.

Sould-
ers.

32 And the like must be done (under
the paine of xl. s.) with that money which
the Churchwardens bring to him for dis-
abled Souldiers.

Papish
recu-
sants.

33 The Chiefe Constable of the Hun- 31
dred (where there be no Churchwardens

62 Constables of any Town, Parish, or Chappell in such Hundred) ought once a yeere to present at the Quarter Sessions, the monthly absence from Church of Popish recusants within such Towns and Parishes, and the names of the children of nine yeeres old and upwards, abiding with their said Parents, and the age of such children as neere as they can, as also the names of the servants of such Recusants: vnder pain of losse of x.s. for every such default. And if vpon such presentment the partie happen to bee indicted and convicted (not being for the same absence before presented) the said Constable is to haue a reward of x.s. out of such Recusants goods.

Next after the Constable of the Hundred, Wapentake, or Franchise, followeth the Constable of a Towne, who is somewhere called a *high Constable*, for that he hath there a *petie Constable* under him, and is sometimes also termed a head-officer, because in some corporate townes Constable is part of the name of their Incorporation; and now also because there be sundry things that are by the lawes indifferently referred to him, or to the Tythingman, Borsholder, or such other inferior officer of the peace: therefore I will first set downe those, and then afterward, speake of the rest that are committed to him only, and to none of them.

34 If a common Inholder, or Alehouse

Constable of a Towne.

house keeper will not lodge such as tra-
uell, the Kuler, Constable, or other Offi-
cer of the Towne may compell him
thereto.

5. Ed. 4.
3. Acc.
sur. cas.
B. 76.

Alehouse.

Every person that keepes a common
Alehouse or Tiplinghouse, or doth vse
commonly selling of Ale, Beere, Cyder,
or Perry without licence, shall for eue-
ry such offence forfeit twenty shillings:
which penalty, after conviction before a
Justice of Peace, Maior, or other head
Officer, and by warrant from such Ju-
stice of Peace, or &c. shall or may be le-
vied by the Constables or Churchwar-
dens of the Parish, where the said of-
fence shall be committed, to the vse of
the Poore of the same Parish, by way of
distresse, and (for default of satisfaction
within three dayes) by sale of the offen-
ders goods, rendring unto him the ouer-
plus: And here the conviction of such of-
fender shall bee, either by the view of
such Justice of Peace, Maior or other
head Officer, or by his owne confession,
or upon oath of two witnesses, which
oath the said Justice of Peace, or &c.
shall by this Act have power to minister.
And if such offender shall not have suffi-
cient goods, whereby the said twentie
shillings may bee levied by way of di-
stresse, as aforesaid, or shall not pay the
said summe within five dayes after such
conviction, as aforesaid, that then the
said Justice of Peace, or &c. shall com-
mit

3. Cas.

5. Ed. 4.

mitt euery such offender to some Constable, or Constables, or other inferiour Officer or Officers of the Citie, Borough, Towne, Parish, or Hamlet, where the offence shall be committed, or the partie apprehended, to be openly whipped for the said offence, as the said Justice, or, &c. shall limit and appoint. And if the Constable or inferiour Officer doth not by himselfe or some other, execute vpon the offender the punishment limited by this statute, that then it shall bee lawfull for the said Justice, or, &c. to commit the said Constable, or other inferiour Officer to the common Goale, there to remaine without Baile or Mainprise, vntill the said offender shall be by the said Constable, or, &c. or by some other at his appointment, punished and whipped as aforesaid, or vntill he the said Constable, or, &c. so neglecting his duty, shall haue payd the summe of forty shillings to the vse of the poore of the Parish for his said contempt.

35 No person retained in husbandry, Servants
or in any the Arts appointed by the Statute of Labourers (made in the fifth yeeere of our late Soueraigne Lady M. Elizabeth) may depart after the time of such Retainour expired, out of the Towne or Parish where he last serued, to serue in another, vnlesse he haue a Testimoniall vnder the seale of the Constable or other such Officer, & of two other honest Household-
holders

36 The duties of Constables,

holders of the Towne or Parish where
hee last served, according to this forme.
Memorandum, That A. G. late servant of
C. D. of E. in the county of K. Husband-
man, or Taylor, &c. is licenced to depart
from his said master, and is at his liberty
to serve else-where, according to the Sta-
ture in that case made and provided. In
witness whereof &c. dated the day, mo-
neth, yeere and place of the making
thereof. Which Testimoniall the Parson,
Vicar, or Curate of the parish where such
Master, Mistresse, or Dame doth dwell,
ought to register, taking only 2. d. there-
fore. And if such person be accepted into
any other service, without shewing such
Testimoniall to the Constable, or such o-
ther Officer, Curate, or Churchwarden
of the place where hee shall bee accepted,
he shall be imprisoned till he procure such
a Testimoniall: which if he do not within
twelve daies next after the first day of
his imprisonment, he shall be whipped as
a Vagabond.

Labour-
ers.

36 In the time of Hay, or Cornehar-
vest, the Constable, or such other Officer
of any township, upon request made, and
for avoiding the losse of any corn, grain,
or hay, may cause all such artificers and
persons as be meet to labour, by his dis-
cretion, to serve by the day for the mow-
ing, reaping, shearing, getting, or inning
of corne, grain, or hay, according to the
skill and qualitie of the person: and if any
such

Borsholders, Tythingmen, &c. 37

such person shall refuse so to doe, then ought such officer (vnder the pain of forty shillings) to imprison such refuser in the Stocks, by the space of two dayes and one night.

37 The Constable, Borsholder, or other such Officer, and the Churchwardens of euery Parish, ought yeerly vpon the Tuesday or Wednesday in Easter weeke, to call together a number of the Parishioners, and to chosse two honest men of their Parish, to be surveyors of the workes for amendment of the High-ways within their Parish leading to any market Towne: and ought then also to appoint six dayes for the amendment of those High-ways before Midsummer then next following: & ought openly in the Church, the next Sunday after Easter, to giue knowledge of the same six dayes.

They also ought to haue one part of the Estreats indented, & may call the Bailiffe or High-Constable to Account concerning the forfeitures, for default of amending High-ways, as hath already appeared before. And they also, or any of them may leuy by Distresse, and by sale of such Distresse, all sums of money forfeited for any cause within the Statute of High-ways made in the 18. yeere of the late Queene Elizabeth, (if so be that the Surveyors of High-ways shall not before haue leuied and employed the

38 The duties of Constables,
same, within one yere next after the of-
fence committed) & shall yeld Account
therefore before the two Iustices of the
Peace, as is afore shewed.

High-
wayes.

38 The forfeits against the Statute
for amendment of the annoyed High-
wayes in the Wealds of Kent, Surrey, and
Suffex, ought after conviction thereof to
be leued by distresse, by the Constables,
Headborowes, Tythingmen, or other such
Officers there, upon warrant from the
Clerke of the Peace in open Sessions,
or from two of the Iustices that were at
such Session, the one of them being of the
Quorum.

35. El. 3. B.
cap. 2. p. 3.

Duty and
Cry.

39. After such time as the two Iustices
of Peace haue ratably assessed every
Towne and Parish towards the pay-
ment of the damages that any person
hath recovered against him of the Hun-
dred wherein he was robbed, upon the
Statute of Hvy and Cry: then may the
Constable or Headborow of every such
Towne and Parish, ratably within his
limit, take (according to their abilities)
every dweller in every such Towne or
Parish, toward the payment of such as-
sessment made by the Iustices; and may
also distraine every person by his goods
and chattels, that shall refuse to pay the
same, and may sell the distresse, and re-
taine so much thereof as the taxation
shall be, and deliuer the ouerplus to the
person so distrained. And shall (within
ten

. El.
p. 7.
27. B.
cap.

Inc. 31.

ten dayes next after hee hath lentied the said rates) deliver the same to the said Iustices, or one of them, to the vse of the party robbed.

40 The minister or Curate of the Parish, and the Constable, Headborough, or Tythingman of the Towne, to which any Popish Recusant shall be sent by order of this Statute, shall take notice thereof by him, and shall enter the same into a booke to bee kept in euery Parish for that purpose, and shall certifie the same at the next Quarter Sessions of the Peace in that County. Popish Recusant.

41 The Constable, or other inferiour Officer must whip such hedge-breakers, robbers of Orchards & Gardens, cutters of cozne and wood, &c. as be for that purpose committed vnto them by the Iustice of Peace, vpon paine to be committed to the common Goale without Baile or Mainprize till it be done. Hedge-breakers.

42 Every Constable, and other Officer that doth wilfully make default in leuying such money as they are commanded by the Warrans of Mayors, Bailiffes, head Officers, or Iustices of Peace (having taxed the same for reliefe of the Poore infected with the Plague) doth forfeit for euery such offence xx. s. to the vse of such persons infected. And euery Constable, Headborough, or other Officer (if the infection be out of any Citty, Borough, Towne Corporate, Priuileged Plague.

40 The duties of Constables,

ledged place, or Market Towne) may command or appoint persons infected, or being or dwelling in any house infected, to keep their house for auoyding of further infection: & if notwithstanding such persons do willfully and contemptuously disobey such direction and appointment, offering and attempting to breake or go abroad, and to resist, or going abroad & resisting such keepers or watchmen as are appointed to see them kept in: it is lawful for such watchmen with violence to enforce them to keep their houses. And if any hurt come by such enforcement to such disobedient persons, the said keepers, watchmen, & other their Assistants shall not be impeached therefore. And every infected person so commanded (by the said Constable, Headborough, or other Officer) to keep house, which contrary to such commandment, willfully and contemptuously goeth abroad and conuerseth in company, having any infectious sore upon him incurred, becommeth a felon: But if such person haue not any such sore found about him, then for the said offence hee is to bee punished as a Vagabond ought to be by the Statute of 39. El. c. 4. and further, to be bound to his good behauiour for a yeere.

Drunken-
ness.

43 And because by the Statute 4. Jac. 4. cap. 5. (made against drunkenness) all Constables, Churchwardens, Headboroughes, Tythingmen, Ale-cunners, and Side-men,

Side-men, shall in their Duties incident to their offices, be charged to present the offences contrary to the same Statute, therefore it shall not be amisse to set before them the effect of the said Statute as followeth: Every person that shall be drunk, & thereof lawfully convicted (which conviction now by 21. Jac. shall be upon view of the Magistrate, the offenders own confession, or the p[ro]se of one witness) shall for the same offence forfeit 5. s. to be paid within a weeke after such conviction to the Churchwardens of the Parish where the offence was committed, to the use of the Poore of the same parish: And on neglect or refusall to pay the said forfeiture, the same shall be levied of the goods of the offender by warrant from the Court, Judge or Justices, before whom the said conviction was: And if the offender be not able to pay the said 5. s. he shall be set in the Stocks for six houres. And every Constable, or other inferiour officer, to whom that shall be given in charge by precept of any Mayor, Bailiffe, Headofficer, or Justices of the B. within their severall Limits, that doth neglect the due correction of the said Offender, or the due leuying of the said penalties where distresse may be had, shall forfeit 1. s. to the Poore of the parish or place where the offence was committed: to be levied by distresse (by any person having warrant from the Mayor, Bailiffe, or other headofficer, Justices of Peace,

21. Jac.
cap. 7.

4. Jac.
cap.

42 The duties of Constables,

Peace, or Court where such conviction shall be) and to be paid to the Churchwardens, as before limited. And every person which doth continue drinking in any Inn, Victualling house, or Alehouse, in the same Citie, Towne, Village, or Hamlet wherein he dwelleth, or (by 1. Car. cap. 4.) wherein he dwelleth not (other than such as are invited by travellers, labouring and handicrafts men in Cities, Townes corporate, and Market Townes, upon small working dayes, for one houre at dinner to take their diet: labourers and workmen, which for following of their worke, sojourne, lodge, or victuall in any Inn, Alehouse, or Victualling house) other than for urgent occasions, allowed by two Justices of Peace, and the same be scene by any Mayor, or other head Officer, or Justice of Peace within their severall limits, or proved by oath of two witnesses. (But by 21. Jac. the view of the Magistrate, his owne confession, or the prove of one witness is sufficient to convict him of the offence) before any such Mayor, &c. shall therefore forfeit 3. s. 4. d. to the use of the Poore of the Parish where the offence was committed, to be lent as aforesaid: and if such offender being lawfully convicted, be not able to pay the said forfeiture, then the Mayor, Bailiffe, head Officer, Justice of Peace, or Court, where such conviction was, may set such offender

21. Jac. 7.

offender in the Stocks foure houres. And all the said offences are to bee presented (by such Constables, Churchwardens, or other inferiour Officers) before the Iustices of Assize in their circuit, Iustices of Peace in their Sessions, Mayors, Bailiffes, or other head Officers of Cities or Townes Corporate, having power to enquire of trespasses, &c. and in Court Leets. And every person being a second time convicted of Drunkenness, shall be bound with two sureties in Recognizance of 10. li. to bee from thenceforth of good behanour. But no person shall bee punished for any offence mentioned in this Statute, unless he bee for the same presented, indicted, or convicted within sixe moneths after the offence committed. Lastly (by the 21. Jac.) the oath of him that confesseth the offences aforesaid, shall be a sufficient proofe against any other offending at the same time.

31. Jac.
cap. 7.

7 Jac. 11.

44 Every Constable and Headborough, by Warrant under the hand of two Iustices of Peace, may search the houses of persons suspected (other than such as haue xl. l. yearly of inheritance, 80. l. yearly of freehold, or be worth 400. l. goods) for setting dogges, or nets for taking of Feasants & Partridges, & the same may take, kill, & cut in pieces, as things prohibited, & forfeited to such of the said Officers as shall find out and take the same.

Setting
dogs and
nets.

45 Every

44 The duties of Constables,

Who be
Rogues.

45 Every of these persons following and being above the age of 7. yeres, is by the law declared to be a Rogue, Vagabond, or stude Begger; that is to say: Every person that calleth himselfe a Scholler, and goeth about begging: Every Sea-faring man (not having suffered Shipwacke, nor having lawfull Testimoniall from a Iustice of Peace, of, or neere the place where hee landed) that goeth about begging, or excedeth the limits of such Testimoniall: Every idle person that goeth about begging, or that useth any subtle craft, or unlawfull game or play, or that feigneth knowledge in Physiognomie, Palmestrie, or other like craftie Science, or pretendeth to tell Destinies, Fortunes, or such like Phantasticall imaginations. Every wandring person that uttereth himselfe to be a Proctour, Procurer, Patent gatherer, or collector for any Goale, Prison, or Hospitall. Every Fencer, Beareward, Minstrell, or cunning player of Enterlude, other than such player of Enterlude as belongeth to a Baron or other honorable person of greater degree, & be authorized vnder his hand & seal of Armes. (But see the statute made in the first yeer of the Reigne of our Soueraigne Lord K. James, c. 7.) That from thenceforth no authoritie to be given or made by a Baron of this Realme, or any other honorable personage of greater degree, unto any

39. El.
cap. 4.

1. Jac.

1. Jac. c. 7.

1. Jac.

any other person or persons, shall bee a-
 uailable to free and discharge the said
 persons, or any of them from the paines
 and punishments in the said Statute
 (made an. 39. Eliz. cap. 4. mentioned, but
 that they shall bee taken within the of-
 fence and punishment of the same Sta-
 tute.) Every Angler, Tinker, Pedler,
 1. Jac c. 7. Petechapman, or Glasse-man that wan-
 drezeth abroad. Every wandring person,
 or common Labourer, not having other-
 wise than by labour to maintaine him-
 selfe, and being able of body, that refus-
 eth to worke for lawfull wages. Every
 person deliuered out of Goale, that
 beggeth for fees, or trauaileth begging.
 Every one that pretending losse by fire,
 or otherwise, wandrezeth begging. Every
 one (not being a felon) that pretendeth
 to be an Egyptian, or wandrezeth in the
 forme (or habit) of counterfeit Egypti-
 ans. Every impotent and diseased per-
 son (being lawfully licenced by two Ju-
 stices of the Peace to goe to Bath, or
 Burton) that forbeareth not to begge, or
 returneth not according to such Licence:
 and every poore person (appointed to aske
 reliefe in his Parish by the Overseers)
 that beggeth in any other sort than is ap-
 pointed.

1. Jac. c. 31. By the Statute made ann. 1. Jac. cap.
 31. Such as wilfully goe abroad out of
 houses infected with the Plague, (being
 commanded to keepe house) though they
 haue

have no care about them, are punishable as Vagabonds in all respects ought to be by the Statute (39. Eliz. cap. 4.) And by the Statute made anno 7. Jac. cap. 4. 7. Jac. c. 4. Able persons, running out of the Parishes, and leaving their families upon the Parish, shall be taken and deemed to be Incorrigible Rogues, and endure the paines of Incorrigible Rogues.)

The Constable, Headborough, and Tythingman of the Hundred, Parish, or Tything, shall upon the taking of euerie such Rogue (the Tythingman or Headborough being assisted with the aduice of the Minister, and one other of the Parish) appoint the same Rogue to bee stripped naked from the middle upward, and bee openly whipped vntill his or her body be bloody, and shall forthwith send such Rogue from Parish to Parish (by the Officers of the same) the next straight way to the Parish where such Rogue was borne, if that may bee knowne by his or her confession, or otherwise: and if that cannot be knowne, then to the Parish where hee or shee last dwelt before that punishment, by the space of one whole yeere: and neither of them being knowne, then to the Parish through which he or shee last passed without punishment.

After which whipping, such Rogue shall haue a testimoniall subscribed, and sealed with the hands and seales of the said
Consta

Borsholders, Tythingmen, &c. 47

Constable, Headborow, Tythingman, and Minister, or of any two of them, the substance of which shall be registred by the Minister in a booke to be provided for that purpose, vnder the paine of fine shillings for euery default thereof.

And the forme of that Testimoniall may be thus.

A.B. a sturdie Rogue, of tall stature, *Kent*, red haired and bearded, about the age of 30. yeeres, and hauing a wart neere vnder his right eye, borne (as he confesseth) at East Tilbury in Essex, was taken begging at Shorne in this Countrey of Kent the tenth of March, 1624. and was then there lawfully whipped therefore, and he is appointed to go to East Tilbury aforesaid, the direct way by Grauesend, ouer the Riuer of Thames; for which he is allowed one whole day, and no more at his perill: subscribed and sealed the day and yeere aforesaid,

By vs { *C.D. Minister,*
E.F. Borsholder, } of Shorne a-
G.H. Parishioner } feresaid.

And if such Rogue doe not accomplish the order of such Testimoniall, then is he or she to be whipped at euery place for euery such default, till he or she repaire to the place so limited for him: And this Testimoniall must be carried with him from Officer to Officer, as is aforesaid: therein

48 The duties of Constables,

wherein it is needfull to set downe some speciall marke of the body of the Rogue, to the end that neyther one Officer deceiue another, nor the Rogue deceiue them all.

But if such Rogue so taken, appeare to be dangerous to the inferiour sort of people there, or will not bee reformed from Roguish life by the meanes aforesaid, then any two Iustices of Peace of the limit (the one being of the Quorum) may commit such Rogue to the house of Correction or Gaole.

(By the Statute an. 1. Jac. 7. Every person ought to apprehend or cause to be apprehended such Rogues, Magabonds, & Sturdy beggers, as he seeth or knoweth to resort to his house to begge, gather or receiue Almes, and them ought to carry, or cause to be carried to the next Constable or Tythingman, vpon paine of xx.s. for euery default.) 1. Jac.

Every Constable, Headborough, and Tythingman, that shall bee negligent, or shall not doe his best indeauour to take, punish, & conuey ouer the Rogues aforesaid, shall lose x.s. for euery default, (By the Statute an. 1. Jac. cap. 7. the Constable or Tythingman is to forfeit xx.s. for euery such default.) 1. Jac. And euery other person, that doth disturbe or let the execution of this Act of Rogues, shall lose v.l. for euery default, and be bound to the good behauiour,

And

And every such Constable, Headborough, and Tythingman, is in like sort to take and punish, & to conuey from one to another, every Rogue and Beggar that shall be brought and set on the land here, from Ireland, Scotland, or the Ile of Man, till he come to the next Port or Parish in or neere where he was first landed, vpon forfeiture of x.s. for every default.

Now, forasmuch as the execution of this law, as also of that for the Poore, is vpon good reason required at the hands of the *Constables*, *Borsholders*, and such like inferiour *Officers*, becaule, as they of the common sort bee most annoyed thereby, so are they in every corner to haue a ready hand and whip to remedy the euill: I thinke good for their better direction herein to set downe those resolutions and deuices, which (as it is commonly said) were giuen by the *Queenes Iustices at Westminster*, soone after the making of the said Statutes: and thus they follow,

A Rogue affirmeth that he was borne in such a Towne in such a Countie: then ought he to be sent thither, if it may not otherwise appeare that he was born elsewhere: and if he were not borne there in truth, then is he to be said an Incorrigible Rogue, and is to be sent thence to the house of Correction in the Countie

50 The duties of Constables,

to which he is sent : and if there be none there, then to the Gaole vntill the next Sessions, there to be dealt with according to the Statute.

2 The same course is to be obserued if it appeare not where he was borne, and so if he vntroly affirme, that he was last dwelling in such a Towne, in such a County, by the space of a yéere, and was not in truth.

3 If the husband or wife haue a house, & the husband and wife rogue about, they ought to be sent to the Town where that house is ; and so of an Inmate.

4 The wife and children vnder seven yéeres of age, being Vagrant, must goe and be placed with the husband : if the husband be dead, then with the wife where shée was borne or dwelt : and the Vagrant children aboue 7.yéers of age, must be sent to the place of their birth. And if the Vagrant parents with their children vnder 7.yéeres, be placed at the place of birth of their parents, or at the place of last dwelling (as the case shall fall out) if afterward the parents, or either of them dye, or runne away, yet the children (once settled) must remaine there still, and may not be sent to their place of birth, though after they grow to the age of 7.yéeres.

5 The wife being a Vagrant Rogue, ought to be sent to the husband, though he be but a seruant in another Towne.

6 The

6 The Rogue whose place of birth (or dwelling) cannot be knowne, hath wife and children under seven yeeres of age, they must goe with the husband to the place whete they were last wilfully suffered to passe without punishment, where the children must be relieued by the worke of their parents, though the parents be committed to the house of Correction.

7 If any (not being Rogues) shall trauell with their children through a Town, & the father or mother dye, or run away, the Towne is not bound to keepe them where they dye, nor to send them away, but only in charitie, except they become wandering Beggars.

8 If the parents be able to worke, and may haue worke, they are to finde their children by their labour, and not the Parish; but if they be ouer-burthened with children, it shall be a very good way to procure some of them to be placed Apprentices according to the Statute.

9 No man is to be put out of the town where he dwelleth, nor to be sent to his place of birth (or last habitation) but a Vagrant Rogue; nor to be found by the town, except the party be impotent, but ought to set themselves to labour, if they be able, and can get work; if they cannot, the Overseers must set them to labour: And so of them that haue or shall haue houses, when their estates be expired:

And servants, whose times of service are ended, though they cannot get houses: for they must provide themselves houses anew, if they be not impotent.

10 Such persons as be of any Parish, and haue able bodies to work, and be no wanderers abroad out of the Parish, though they refuse to work at such wages as is rated (or commonly giuen) in those parts, are notwithstanding not to be sent to their place of birth (or last dwelling) by the space of a yere, but to the house of Correction, vpon consideration had of both the Statutes of the Poore and Rogues. But if they haue any lawfull meanes to liue by, though they be of able bodies, and refuse to work, yet are they not to be sent to the house of Correction.

11 Such as will remoue or put anie out of their Parish that be not to be put out, this is against the Statute concerning the reliefe of the Poore, & fineable: and if anie haue been so sent, they may be sent back againe.

12 If any be sent to a Town whereto he ought to be sent, and is refused, (being a sturdy, or an impotent Rogue) the persons refusing shall forfeit v.l. and he that is so to be sent, is to be offered to the Churchwardens and Ouerseers.

13 To send the Rogues by a generall Passport, without conueying them from parish to parish, is a let to the conueying
of

of Rogues according to the Statute, and so a forfeit of v.li. vpon them. And to goe with such a Pasport, is but still to continue a Rogue, to be punished by whipping.

14 If the Officer will not receiue a Rogue, to conuey him to the place where he was borne (or dwelt) this is a forfeiture of v.li. in the Officer, that shall not receiue the party, to conuey him or her ouer.

15 None may be suffered to take reliefe at any mans doore, though within the same Parish, vnlesse it be by the order of the Querslers, according to the Statute: neither may any be suffered to begge by the High wayes, though in their owne Parish.

16 By this word (Parents) is understood a Father, or a Grandfather, Mother, or Grandmother, being able persons.

17 Within the word (Children) is included any childe, or Grandchilde, being able.

18 Parsons, or Vicars, &c. be bound (as inhabitant) to the reliefe of the poore, as well as others that inhabit within the Parish.

19 Every one that hath tythes impropriate, Cole-mines, or lands in manuell occupation, &c. is chargeable: and so for such as haue saleable woods, proportioning the same to an Annuall benefit.

54 The duties of Constables;

20 If there be but one Churchwarden in the Parish, he sufficeth, with the other Overseers.

See before Article 25. the duty of Constables & Tythingmen in searching for and punishing Rogues, Vagabonds, and Sturdy Beggars, according to the Statute 7. Jac. cap. 4.

All these things last aforesaid, doe pertain as well to the charge of a Tythingman, Borsholder, Headborow, Chiefe-Pledge, or such other inferiour officer, as they do to the Constable of such a Town or Parish, that hath any of those other officers vnderneath him. But some other points of charge there bee, that belong to such a Constable onely, and not to any of them; as for example:

Weights
and mea-
sures.

46 Every Citty, Borow, and Market Towne, that hath a Constable, ought also to haue common measures sealed, and also common weights sealed, at which the inhabitants may freely weigh.

8. H. 6.
cap. 5.
11. H.
cap. 4.

Merchan-
dise.

47 If any wools, or other Merchandise be shipped in the Staple in any suspected place adioyning to the coast of the water, then Indentures ought thereof to bee made betwene the owner, and the Maior or Constable of that place: or otherwise such Merchandise shall be forfeited.

14. H.
cap. 5.

unlawful
games.

48 The Maior, Sheriffes, Bayliffes, Constables, and other head Officers within

31. H.
cap. 9.

8.
5.

within every Citty, Borough, and Towne within this Realme, where any such officers be, ought, vnder the paine of xl.s. for every default, once every moneth at the least, to make search (as well within liberties as without) in all places, where anye vnlawfull games shall be suspected to be kept, and may arrest and imprison as well the keepers of such places, as the haunters to the same, till they be found no more to keep and haunt such places. And if any such head Officers shall finde or know, that any Artificer, Craftsman, Husbandman, Apprentice, Labourer, servant at Husbandry, Journeyman, or servant of Artificer, or that any Mariner, Fisherman, Waterman, or Servingman, doth play at the tables, dice, cards, fennice, bowles, closh, coting, logatting, or any other vnlawfull game out of Christmas time, or out of their Masters house or presence in the Christmas time, vnlesse it be by licence of such Masters as hath C.L. by the yeere, or aboue, & then also, that playing be within the precinct of such Masters house, garden, or orchard: then such head Officer may commit such Offender to Ward, till he be bound by Obligation to the Kings use (in such summe as to the discretion of such Officer shall be thought reasonable) that he shall not from henceforth vse such vnlawfull games.

49 Those foure Iustices of Peace, that be

56 The duties of Constables,
be authorised by the Statute to make
taration of money for the amendment
of any decayed bridge in the High-way,
ought to make that taration by consent
of the Constables, or of two of the most
honest inhabitants of euerie Towne or
Parish.

Vessels.

50 In all Cities, Burghes, and
Townes wherein no Wardens of Cou-
pers be, the Maior, Sheriffes, Bailiffes,
Constables, or other head Officers
there, haue power to search, view, and
gauge, Barrells, Kilderkins, Firkins,
and other Vessels, to be made there, and
to take such advantage thereby, and in
such manner, as by the Wardens of
Coupers within the city of London may
be taken on euerie behalfe.

23.H.
cap.4

Making
of Malt.

51 The Constable of euerie Burgh, or
Market Towne, or other Towne,
may view, search, and suruey all such
Malt as shall be made or put to sale
there: and if he shall finde anie Barley
Malt, made at any time (the moneths of
Iune, Iuly, and August only excepted) but
that the same shall haue the space of three
weekes (at the least) in the fat, floze, stea-
ping, and such sufficient drying thereof,
and in these three moneths, the space of
seventene daies at the least. And if he
finde anie person to put to sale anie good
Malt mingled with Malt not sufficiently
made, or with Malt made of mow-burnt
or spiced Barley, or to put to sale anie
Malt

27.E.
cap.4

31.Ja.

1.Jac.
1.Car.

Walt not sufficiently well troden, rubbed, and fanned, whereby halfe a pecke of dust or more, may be fanned out of one quarter thereof: Then may such Constable, with the aduice of one Justice of Peace in that Shire, cause the same Walt to be sold to such persons, and at such reasonable prices (vnder the common price of the Market) as to his discretion shall seem expedient.

43. Eliz.
ca. 2. & 3.

52 In default of agreement of the Parishioners betweene themselves, the Constables and Churchwardens of each Parish (or the more part of them) may rate and allot within their Parish their assesse for the Stocke of the Shire, wherewith that Parish was charged at the Quarter Sessions: and they also may leaue the same vpon anie Parishioner by distresse and sale of his goods, rendring the ouerplus to him.

Stock of
the Shire.

21. Jac. 7.

53 And because by the Statute of 21. Jac. cap. 7. (made against tipling) all Constables, Churchwardens, &c. shall in their Oathes incident to their Offices, be charged to present the offences contrarie to the Statute of 1. Jac. cap. 9. therefore it shall not be amisse to set before them the effect of the said Statute, as followeth.

Tipling

1. Jac. c. 9.
1. Car. 4.

Euery Inne-keeper, Victualler, or Ale-house-keeper, that permitteth any to continue tipling in his house, (except such as are invited by Travellers, Labouring men

men

men in dinner time, or which lodge in such houses for time of their continuing in worke, or such as for bigent occasions are allowed by two Iustices of Peace) shall forfeit x.s. for the Breake of the Parish: and that selleth lesse than a full Ale quart of the best Beere or Ale, and of the small two quarts for a peny, shall forfeit xx.s. to the vse aforesaid, the same offences being viewed by any Maior, Bayliffe, or Iustice of the Peace in their several limits, or proued by oath of two witnesses (by 21. Jac. ca. 7. one witness or his owne confession is sufficient to convict him) before such Maior, &c. which penalties are to be leued by the Constables, or Churchwardens of the Parishes where the offences are committed, by distresse (and for default of satisfaction within six dayes, the same distresse to be presently apprysed and sold, and the surplusage to be deliuered to the party of whom the distresse was taken) vnder paine of losse of xl.s. to the aforesaid vse by neglect of their dutie therein, or in certifying the default of distresse by the space of twentie dayes to the Maior, Bayliffe, or other head Officer, or Iustice of the P. within whose iurisdiction the offence was committed. For which penalties to be leued by the Constables or Churchwardens, they shall be accountable to their successors and the parishioners.

54 All Iustices of Peace, Maiors, Bayliffes,

1. Jac.
cap. 19.

liffes, Head Officers, and Constables, as ^{Uctual-}ling tou-
well of Cittyes and Townes Corporate, ^{les.}
as in every Countie of this Realme,
may in Lent time enter into all houses
of Uctuallers, and common Uctual-
ling houses, where dressing of flesh in
Lent shall be suspected, and finding anie
Dren, Beenes, Benets, Dogs, Calves,
Rams, Ewes, or Weathers killed or
dressed in Lent time, or on Fish dayes,
(except such as are provided for ships, or
killed thre dayes next before Easter)
may seise the same as forfeited, and di-
stribute it to prisoners, and other poore
folkes by their discretion.

1. Jac. 31

55 Where the Infection is in any Ci- Plague.
tie, Borow, Towne Corporate, priuiled-
ged place, or Market Towne, the Maior,
Bayliffe, Constable, or other head officers
there, may command persons being or
dwelling in houses infected to keepe in,
and the persons disobeying such com-
mand incurre such danger, as before is
expressed in the Article 42.

3. Jac. c. 4

56 The Churchwardens and Consta- Present
bles of every Towne, Parish, or Chap- the name
pell, or one of them, shall once every of Recu-
yeere present at the Quarter Sessions, sants.
the monethly absence from Church of
all Popish Recusants in such Townes
& Parishes, and the names of their chil-
dren of 9 yeeres old & upwards, abiding
with their parents, and if they can, their
age, & the name of their servants. And in
default

60 The duties of Constables,

default of such presentment, shall forfeit
xx.s. And if the party upon such present-
ment happen to be indicted and convicted
(not being for the same absence before
presented) they shall have a reward of
xl.s. of the Recusants goods.

The duties of Constables in making
an indifferent tare for the charges of
conveying an Offender to the Goale.
See before, Art. 24.

Sea fish.

57 By the Warrant of one or more
Iustices of Peace, it is lawfull for the
Constables and Churchwardens of eue-
rie Market Towne, Parish, or Liberty,
within which any offence shall be done
in erecting of new weares along the sea
shore, or in any Haven, Harbour, or
Crack, or within five miles of the mouth
of anye Haven or Crack in destroying
of anye Spawne of Sea-fish in anye
Weare or other Engine, or in fishing
with anye draw-net, or drag-net under
three inches mesh in anye Haven, &c. or
within five miles, &c. against the Sta-
tute, 3.Jac.cap.12. may lenie the forfei-
tures by way of distresse, and sale of the
Offenders goods, rendering to them the
surplusage.

3.Jac.
cap.12

Apprenti-
ces.

58 The Parson or Vicar of euerie
Towne or Parish not incorporate, to-
gether with the Constable or Consta-
bles, Churchwarden or Churchwardens,
Collectors and Overseers of the Poore, or
the most part of them (where money is
already

7.Jac.
cap.3

alreadie giuen, or shall hereafter be giuen, to be continually imploted for the binding out as Apprentices the poorest sorts of children) shall, within the sayd Townes and Parishes, haue the nomination and placing of such Apprentices, and the guiding and imployment of such monies as haue been heretofore so giuen, or which hereafter shall be giuen, to and for the continuall binding forth of such and so many Apprentices, and in such sort as is already, or shall hereafter be so giuen and appointed, eyther by the last will, or any writing vnder the hand and seale of the giuers of such monies: And if any of them wilfully forbear or refuse, according to their duties to imploy such monies, by means whereof the said monie shall not be imployed accordingly: then euery of them so offending shall forfeit thre pounds for euery such offence. And the Master, Mistresse, or Dame of such Apprentices shall be bound with one or two sufficient sureties, in double the summe they haue receiued with such Apprentices, to such Parson, or Vicar, Constable, &c. to repay the money so receiued at seven yeeres end, or within thre moneths next after the end of the said seven yeeres. And if the Apprentice, Master, Mistresse, or Dame happen to die within the said space of seven yeeres, then within one yeere next after such death. And the Parson, or Vicar,

car, Constable, &c. ought to put forth and imploy such monies within three moneths at the furthest after the same shall come to their hands. And if there shall not be found fit persons to be bound out Apprentices in the Townes and Parishes where such monies are or shall be given to be imployed as afore is declared, the poorest children of any the Parishes next adjoining may (by the discretion of the said Parson, &c.) be bound Apprentices, taking such bonds as is above mentioned. And choice must be alwayes made of the poorest sorts of children: And that no Apprentice be above 15. yeers old when he shall be first bound. And the said Parson or Vicar, Constable, &c. are once every yeere in Easter week, or within a moneth after Easter day, accountable before foure, three, or two Iustices of Peace, dwelling in or next to the said Townes and Parishes, for all such monie as they have imployed in binding of Apprentices, and of all bonds and obligations taken for payment thereof: and of the mony remaining in their hands: and are at such account, or within ten dayes after, to deliuer to their Successors, or to such as then be in their times or places, all the said bonds and obligations, and such monies as remain in their hands, not then imployed.

Swearing and cursing.

59 If any person or persons at any time or times hereafter prophanely swear,

21. Ja
cap.

Swear, or curse, either in the hearing of a Justice of Peace of the Countie, or of any Mayor, Justice of Peace, Bailiffe, or head Officer of any Citty or Towne Corporate, where such offence is or shall be committed, or shall bee thereof convicted by the oathes of two witnesses, or by confession of the partie before any such Justice of Peace of the Countie, or head Officer, or Justice of Peace in the Citty or Towne Corporate, where such offence is or shall bee committed, (to which end every such Justice of Peace, and every such head Officer, shall have power by this Act to administer the same oath) That then every such Offender shall for every time so offending, forfeit and pay to the use of the Poore of that Parish where the same offence is or shalbe committed, the summe of twelue pence. And it shall also be lawfull for the Constable, Churchwardens, and Overseers of the Poore of that Parish, by Warrant from such Justice of Peace or head Officer, to levie the same summe and summes of money by distresse and sale of the Offenders goods, rendering to the party the overplus. And in defect of such distresse, the Offender, if hee or shee be above the age of twelue yeres, shall by Warrant from such Justice of Peace, or head Officer, bee set in the Stocks by three whole houres: But if the Offender be

64 The duties of Constables,

be under the age of twelue yeres, and shall not forthwith pay the said summe of twelue pounds, Then he or she by warrant of such Justice of Peace, or head Officer, shall be whipped by the Constable, or by the Parent, or Master, in his presence: Provided neuerthelesse, That euery offence against this law shall be complained of, and proued, as abovesaid, within twentie dayes after the offence committed.

Proph-
nation of
the Lords
Day.

60 There shall be no meetings, assemblies, or concourse of people out of their owne Parishes on the Lords Day within this Realme of England, or any the Dominions thereof, for any sports or pastimes whatsoever: Nor any Beare-baiting, Bull-baiting, Enterludes, Common Playes, or other vnlawfull exercises or pastimes, vsed by any person or persons within their owne Parishes; and if any person or persons offend in any the premises, he shall forfeit for euery such offence three shillings foure pence, the same to be impleaded and conuerted to the vse of the Poore of the Parish, where such offence shall be committed: And if any one Justice of the Peace of the Countie, or the chiefe Officer or Officers of any Citty, Borow, or Town Corporate, where such offence shall be committed, vpon his or their view, or confession of the partte, or proue of one or more witnesse by oath (which the said Justice

Justice, or chiefe Officer, or Officers shall by vertue of this Act haue authoritie to minister) shall find any person offending in the premisses, the said Justice, or chiefe Officer, or Officers shall give Warrant vnder his or their hand & seale to the Constables or Churchwardens of the Parish or Parishes where such offence shall be committed, to leuie the said penalty so to be assessed by way of distresse, and sale of the goods of euery such offender, rendring to the said offenders the ouerplus of the mony raised of the goods so to be sold: And in default of such distresse, to set the party offending publickly in the Stockes by the space of three houres. But this offence must be prosecuted within one moneth after it is committed.

Car. Every Carrier, Waggon-man, Carter, Wapne-man, or Drouer, that trauels vpon the Lords Day, shall forfeit xx.s. & euery Butcher that kils, or sels any victual vpon the same day, shal forfeit vi.s. viii. d. which sums & penalties after conuiction before a Justice of Peace, or other head Officer, & by Warrant from such Justice of Peace, or, &c. shall or may be leuied by any Constable or Churchwarden, to the vse of the poore of the Parish where such offence shall be committed, by way of distresse and sale of the offenders goods, rendring vnto him the ouerplus: And here the conuicti-

on of such offender shall be, eyther by the view of such Justice of Peace, Maior, or other head Officer, or by his owne confession, or vpon oath of two or moe witnesses, which oath the said Justice, or, &c. shall by this Act haue power to minister. But this offence must bee prosecuted within sixe moneths after it is or shal be committed.

61 In all these cases also last before rehearsed, it seemeth that Borsholders, Tythingmen, Headborows, & other such (being in townes or parishes vnderneath Constables that be there) cannot meddle; because such Constables be (in comparison of them) called Head Officers.

62 Now therfore vpon all the whole discourse before writen, it may wel appear, that Borsholders, Tythingmen, Headboroes, Boroheads, Thirdboroes, and Chiefe Pledges, whether they be there the only officers for the Peace, or be vnderneath Constables, may, within their Borows, Tythings, or Hamlets, do many things that the other may do, and that there are many other points which those other officers may doe, & wherewith these Borsholders & the rest cannot meddle at all. And therfore to auoide idle repetition of matters already spoken, I say shortly, that if an vnder Borsholder, Tythingman, Headborow, Borohead, Thirdborow, or Chiefe Pledge, will see what belongeth to him to doe, he must looke before vpon all
such

such cases where his power is declared to be equall (for those points) with the power either of a high Constable of the Hundred, or a Constable of a Towne or Parish: for in all such things hee hath to deale as well as they: But where any thing before is shewed to pertain only to the high Constable of a Hundred, or only to the Constable or chiefe or head Officer of a Towne or Parish, there such a Borsholder, Tythingman, or any of the rest hath nothing to doe with it.

And thus having opened so shortly and plainly as I could, the duties of all these said ministers of the Peace, I do shut vp this worke: desiring those that shall take any profit of this labour, to yeld thanks to God the most liberall giuer.

FOR the more ease of euery of these officers in finding out that, which particularly belongeth vnto each of them, I haue divided the former *Treatise* into 60. severall *Articles* (or parts) as it may appear at the beginning of each *Article*, by the severall *Figure* thereof, by which every officer may bee directed severally to so much as appertaineth to himselfe, if he will marke this short table following: For,

The high Constable of the Hundred, Rape, Franchise, or Wapentake, hath the execution of all those matters that doe lye within these *Articles*, that is to say:

68 The duties of Constables, &c.

Articles concerning.

- | | | | | | | |
|----|---|--|----|---|-------------------------------------|------------------------------|
| 3 | } | His name and be-
ginning. | 24 | } | Conueying offen-
ders to prison. | |
| 4 | | | 25 | | | Rogues and beg-
gers: |
| 11 | } | The Peace, & ser-
uing of Warrants. | 45 | } | Prisoners. | |
| 12 | | | 26 | | | |
| 13 | | | 27 | | | Petite Sessions. |
| 14 | | | 28 | | | Watches, and High-
wayes. |
| 15 | } | Execution of Sta-
tures. | 29 | } | Clothiers. | |
| 16 | | | 30 | | | High-wayes. |
| 18 | } | Physicians. | 31 | } | Money for priso-
ners. | |
| 19 | | | 32 | | | Money for Souldi-
ers. |
| 20 | } | Purueyors. | 33 | } | Popish Recusants. | |
| 21 | | | 43 | | | Drunkennesse. |
| 22 | } | Souldiers. | | } | | |
| 23 | | | | | | |
| 23 | } | Coroners. | | } | | |
| | | | | | | |

And the Constable of a Towne & Pa-
rish, hath his part in al things contained
within any of these Articles following,
that is to say.

Articles concerning.

- | | | | | | | |
|----|---|--|----|---|-------------------------------------|------------------------------|
| 4 | } | His name and begin-
ning. | 22 | } | Souldiers. | |
| | | | 23 | | | Coroners. |
| 11 | } | The Peace, & ser-
uing of Precepts. | 24 | } | Conueying offen-
ders to prison. | |
| 12 | | | 25 | | | Rogues and Beg-
gers. |
| 13 | | | 45 | | | |
| 14 | | | 34 | | | |
| 15 | } | Execution of Sta-
tures. | 35 | } | Seruants and La-
bourers. | |
| 16 | | | 36 | | | |
| 18 | } | Physicians. | 37 | } | High-wayes. | |
| 19 | | | 38 | | | High-wayes in the
Wealds. |
| 20 | } | Purueyors. | 39 | } | Huy and Cry. | |
| 21 | | | | | | |

Popish

- | | |
|------------------------|-------------------------|
| 40 Popish Recu- | 49 Bridges. |
| 56 sants. | 50 Vessels. |
| 41 Hedge-breakers. | 51 Making of malt. |
| 42 } Plague. | 52 Stocke of the Shire. |
| 55 } | 53 Tipling. |
| 43 Drunkenness. | 54 Victualling houses. |
| 44 Setting dogs & nets | 57 Sea fish. |
| 46 Weights and mea- | 58 Apprentices. |
| sures. | 59 Swearing & cursing |
| 47 Marchandize. | 60 Prophanation of |
| 48 Vnlawfull games. | the Lords day. |

And euery Borsholder, Tythingman, Borowhead, Headborow, Thirdborow, and Chiefe pledge, may for his Borow or Tything, learne his office by these Articles, that is to say:

Articles concerning.

- | | |
|------------------------|-----------------------|
| 5 His name. | 23 Coroners. |
| 6 } His first office. | 24 Conueying offen- |
| 7 } | ders to prison. |
| 8 } | 25 } Rogues and Beg- |
| 9 } His latter office. | 45 } |
| 10 } | gers. |
| 11 } | 30 Highwayes. |
| 12 } Keeping of the | 34 Alehouses. |
| 13 } peace. | 35 Seruants and La- |
| 14 } | bourers. |
| 15 } Precepts to bee | 37 Highwayes. |
| 16 } serued. | 38 Highwayes in the |
| | Wealds. |
| 17 Execution of Sta- | 39 Huy and Cry. |
| tutes. | 40 Popish Recusants. |
| 18 Physicians. | 41 Hedge-breakers. |
| 19 } Purueyors, | 42 Plague. |
| 20 } | 43 Drunkenness. |
| 21 } | 44 Setting dogges and |
| 22 Souldiers. | nets. |



The duty of Church-

MINISTERS.



The latter Lawes hauing imployment of many to make, hath borrowed some vse in a few easie matters of spirituall Ministers, chiefly for the help and readinesse of their pen, which in many Parishes few or none (besides them) can serue withall.

1 The Minister (or Curate) of the Parish ought to Register the Testimoniall that is made to a seruant to appeare at the end of his Terme, and he is to take 2. d. therefore, and not aboue.

2 He also is to assist the Borsholder or Tythingman in appointing a Rogue to be whipped, and must Register (in a booke for that purpose) the Testimoniall that such Rogue ought to haue after whipping, vpon paine to lose v. s. for euery default.

3 He may giue Licence to a sicke person (during the sicknesse only,) to eate flesh vpon dayes prohibited, and must (for 4. d.) Register the same in the Church booke, if the sicknesse continue

Licence
to eate
flesh.

nue aboue eight dayes after the Licence. But see the Statute, 1. Iac. cap. 29. That no Licence granted to any sicke person by force of the Statute 5. Eliz. cap. 5. shall be any sufficient warrant to such person to eate any Béeſe, Meale, Porke, Dutton, or Bacon in Lent, or vpon any day now obserued as a Fish-day, but that the said sicke person for dressing or eating such Béeſe, &c. shall incurre the danger and penalty compzised in the said Statute of 5. Eliz. c. 5.

4 The Minister or Curate of the Parish, may require any person within thre moneths after his conviction vpon the Statute 35. Eliz. cap. 1. to make publick confession and submission in the Service time on a Sunday or Festiuall day. And he that shall (after notice to him giuen by the Minister, or Curate, or Churchwardens) maintaine, or retaine in his house, or otherwise, any person obstinately refusing to come to Church, shall lose x. li. for euery such person, for euery moneth so maintained or retained. Com-
mitting to
Church.

5 The Minister or Curate of the Parish, and the Constable, Headborow, or Tythingman of the Towne, to which any Popish Recusant is sent, shall (vpon notice thereof by himselfe) enter the same into a book to be kept in euery Parish for that purpose: and shall certifie the same at the next Quarter Sessions of the Peace in that County. Popish
Recusant

Fifth day
of November,

6 Every Minister after Morning prayer or preaching, is alwaies upon the fifth day of November to reade publikly, distinctly, and plainly, the Statute made in the third yere of the raigne of our most gracions Soueraigne King Iames, for publicke thanksgiving to Almighty God every yere on the same day, for his deliuerance of the King and State from the Powder Treason.

See before in Constables, &c. Art. 25. his hand to be set to the account of Constables and Tythingmen, of Rogues taken and punished by them.

See in Constables, &c. Art. 58. the duty of the Parson or Vicar, in binding out of Apprentices, and in imploying of mony given to that vse.

The duties of Churchwardens.



Wilst I passed thorow some of the Statutes before concerning the offices of Constable and Wortholder, I found them mingled with diuers duties pertaining to the Churchwardens of Parishes, the Surueyors of Highwaies, the Distributers of the provision for the destruction of Vermine, and Ouerseers of the poore whereby I was also moued to adde somewhat of these offices, the rather because I was perswaded, that with that little

little more of labour, I might doe a great deale more of good, seeing that thereby the plaine Countryman should (after a sort) be furnished with all manner of understanding (in the Temporall Law) needfull for the exercise of any of those offices that may lightly fall vpon him.

First therefore I will speake of the Churchwardens office, but that so farre forth onely, as the common Lawes, and statute Lawes of the Realme doe leade mee, knowing that such other parts of that office as doe rest vpon the Lawes Ecclesiasticall, be from time to time sufficiently both taught and called vpon by those that haue the execution of the same.

The Churchwardens of Parishes be Office of taken (in fauour of the Church) to be for Church= some purposes a maner of Corporation wardens at the common Law: that is to say, Persons enabled by that name, to take moveable goods, or cattels, and to sue, and bee sued at the Law, concerning such goods, for the vse and profit of their Parish. And therefore a man may well in his life time giue, or by his last will bequeath money or other moveable things to the Churchwardens, or to the Parishioners of a Parish, eyther for the reparation of the Church, or towards the buying of Bookes, Communion Cups, linnen Cloathes, or other decent ornaments or furniture for the Church.

Which

Which maner of gift is so much fauoured in the law, that it is not altogether needfull in such a gift, for a man to vse expresse words, or writing. For if a man doe buy a Bell, and doe hang it vp in the Steeple, or doe make a Pew, and doe set it vp in the Church, and doe neither make any word or writing thereof, yet is this Bell or Pew by this dedicated or giuen to the Church.

They
shall haue
action.

2. Now although Church-wardens shall haue no Action at the Common Law to recouer a Legacie, or such other thing which they neuer had: yet neuerthelesse if any such goods, or ornaments of the Church be once in their possession and custodie, then shall they maintaine an Appaele of Robbery against him that stealeth them, or an action of Trespasse against him that shall wrongfully take them away, though it be the Vicar or Parson himselfe: and the damages that they shal recouer thereby, shal be to the vse and benefit of the Parish, and not to their owne vse. But if those Churchwardens (from whom the goods were so taken) shall happen to die before any action by them brought for the goods, yet shall the next Churchwardens haue an action for the same.

They
may not
waite the
Church
goods.

3 And forasmuch as these Churchwardens be Officers put in trust for the behoofe of their Parish, therefore also are they not inabled with any other power, than
for

Lib.
Intrac.
fol. 37

11.H.
12.
8.H.
12.

8.
6.

37.
30.
34.
11.
12.
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6.

26.H.
5.

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66.
co.

for the good and profit of the Parish. So that Churchwardens can neither give away, nor release at their own pleasure the goods of the Church. For if the Parishioners shall find, that they doe unprofitably waste or mispend the goods of the Parish, then may they remoue such Churchwardens, by making their choice of new: which new Officers may (by action of account) call to account the former Churchwardens, and shall thereby compell them both to giue reckoning of their doings during their office, and also to make satisfaction to the vse of the Parish for the harm that it hath receiued by their fault. And although the vsage and custome of the Parish bee, that the Churchwardens there shall continue in their office, by the space of one whole yeere, or two yeeres or more (as indeede some Parishes haue such customes) yet vpon such or the like misdemeanour found in them, may the Parishioners at all times proceed to an election of new Churchwardens, and may remoue the old, for that otherwise they haue no meane by our law to call them to their Account: but by such as shall be put in their place. Neuerthelesse those former Churchwardens shall (vpon the making of such their account) haue allowance of all needfull summes of money, or other things which they haue expended, epther vpon the reparation of the body of the Church,

They may be remoued & brought to account

Church, or for the provision of mete and lawfull ornaments, or other furniture of the Church or Parish; because they are compellable (by the Ecclesiasticall Lawes) so to lay forth the goods of the Parish committed to their custodie and charge. They shall haue allowance also (vpon such their account) of the money payd by them for reliefe of Prisoners in the common Gaole, by vertue of the Statute 14. El. cap. 5. and of whatsoener other thing that they are by law chargeable to doe.

They
haue not
to do with
lands,

4 This (in effect) is the power and charge that the common Law doth giue to Churchwardens: for as touching any estate in lands, or the profits of any lands, Churchwardens haue not to meddle at all: Insomuch, that if the wals, windowes, or doores of the Church be broken, or the trees in the Church-yard be cut downe, or the grasse thereof be eaten vp, then the Parson or Vicar (and not the Churchwardens) shall haue the action for it: because Churchwardens are not by law allowed to be a Corporation for any other thing than for mouable goods only. Now therefore I will shew how their office is increased by a few Statute Lawes, that doe concerne the same.

Church=
wardens
fice by
De Statute
repaire
the
Church,

5 All persons inhabiting within the Kings Maiesties Dominions, shall diligently and faithfully (hauing no lawfull

or reasonable excuse to be absent) endeavour themselves to resort to their parish Church or Chappell accustomed, or (upon reasonable let thereof) to some vsuall place where common prayer & such seruice of God (as is contained in the booke of common prayer) shall be vsed in such time of let, upon euery Sunday & other dayes ordained and vsed to bee kept as holy dayes, and then and there to abide orderly and soberly during the time of the common prayer, preachings, or other seruice of God, there to be vsed and ministered upon paine of punishment by the censures of the Church, & also upon pain that euery person so offending, shall forfeit for euery such offence xii. d. to be leuiued by the Churchwardens of the Parish where such offence shall be done, to the vse of the Poore of the same Parish, of the goods, lands, and tenements of such offender by way of distresse.

¶ The Constables and Churchwardens of euery Parish shall yearly upon the Tuesday or Wednesday in Easter weeke, call together a number of the Parishioner, and shall then elect and chuse two honest persons of the Parish to be Surueyors and Orderers of the workes for one yeere, for amendment of the Highwaies in their Parish, leading to any Market towne: which persons shall take upon them the execution of their said offices upon paine euery of them making

High-
waies.

making default to forfeit xx. s. And the said Constables and Churchwardens shall then also name and appoint 6 daies for the amendment of the said High-ways before Midsummer then next following: and shall openly in the Church the next Sunday after Easter, giue knowledge of the same sixe daies. And they also ought to haue one part of the Estreats indented, and shall call the Constables to account, &c. as it doth appeare before in the thirtieth article of the Constables office.

7 See after also in the office of the Surueyours of the High-ways for leuying those forfeitures by the Churchwardens, if the Surueyours shall not leuie and impoly the same within one yeere after the offence committed.

Refuse to
come
to the
Church.

8 And see in the 4. article of the duty of the Minister, that the Churchwardens may giue notice to such as maintaine or retain in house, or otherwise, any person that obstinately refuseth to come to the Church.

Eate flesh.

9 If any person within this Realme shall (without lawfull licence) eate any flesh vpon any daies now vsually obserued, as Fish daies, he shall forfeit three pounds for euery such offence, or else suffer three moneths imprisonment. And euery persō within whose house any such offence shall be done, and being pryncie or knowing thereof, and not effectually disclosing

disclosing the same to some publicke officer, having a uuthoritie to punish the same, shall for every offence forfeit xl.s. The third part of all which forfeitures shall be to the vse of the Parish wherein the offence shall be, and to be leuied by the Churchwardens after any conviction in that behalfe.

The licence for eating of Flesh, to be given to any person for notozious sickness, by the Bishop of the Diocesse, or by the Parson, Vicar, or Curate of the Parish, ought to be registred (if the sickness shall continue above 8. dayes after such Licence granted) in the Church booke, with the knowledge of one of the Churchwardens there: and the partie licensed shall giue 4. d. to the Curate for the entry thereof. See before in the duties of Church-Ministers, Art. 3.

Licence
to cate
fish.

10 The Churchwardens, and foure, three, or two others of every Parish, appointed by the two Iustices of Peace, to be Overseers of the Poore there, (or the more part of them) may by the consent of two Iustices, from time to time take order, for setting to worke all persons married or vnmarried, that haue no meanes or ordinary trade to liue by, and the children of such parents as shall be thought vnable to maintaine them. And may also set vp any trade or mysterie for the same purpose: and may take as well Inhabitants as Occupiers of lands in

in the Parish to pay weekly, or otherwise, such competent summes of money (as they shall thinke meete) for a stocke of ware & stufte for such poore to work, and for the necessary reliefe of the impotent poore there, and for the putting out of such children to be Apprentices: and they to whom such Apprentices shall be put, as aforesaid, shall take, receiue, and keep them as Apprentices: and may execute all other things concerning the premisses, as to them shall seeme convenient.

And they shall meete together once in each moneth at the least in the Church vpon some Sunday in the afternone, to consider of some good course and meete orders to be set downe in the premisses, and within foure dayes after their yeere ended, and other Duersers nominated, shall yeld vp to the two Iustices of Peace a perfect account of their money, stocke, and other things concerning that office, and shall pay the monies that shall be in their hands to the new Churchwardens and Duersers, vpon paine to lose xx. s. for euery such monethly absence (without cause, to be allowed by the two Iustices) and for euery negligence in the execution of the said office, or orders made by assent of the two Iustices, as aforesaid.

And the said Churchwardens and Duersers (or any of them) by Warrant from

from two such Justices, may leuy such
taxations by distresse & sale of the of-
fenders goods, as also the mony behind
vpon any such account, rendring the
ouerplus to the party; and they (with
the leaue of the Lord of a Common or
waste, in wryting) may erect there con-
uenient habitations, & place Innates
therein at the generall charges of the
parish, &c. when the stock of the Shire
is assessed by the Justices of Peace in
their Quarter Session vpon euery pa-
rish, the same shall be yerly rated with-
in the parish by agreement of all the pa-
rishioners, or in default thereof by the
Churchwardens & Constables of the
Parish, or the more part of them, who
may leuie the same by distresse, & sale
of the goods of such as refuse to pay the
portion thereof, & shall render the ouer-
plus therof to the owner; & the Church-
wardens must ratably pay ouer to the
High Constable in whose limit the
Parish is situate, ten dayes before the
end of euery Quarter Sessions, such
mony as for that Parish they ought to
pay for the reliefe of the prisoners in
the Marshalsey and Kings Bench, vpon
forfeiture of ten shillings for euery de-
fault of such payment.

II In euery parish, the Churchwar-
dens with fire other Parishioners, (to
be required by the Churchwardens)
shall yerly in one of the holy dayes in
Easter

Destrucci-
on of ver-
mine.

82 The duty of Churchwardens.

Easter weeke, and at euery other time when it shall be needfull, take & asseſſe euery person hauing the poſſeſſion of any lands or tiſhes within that pariſh to pay ſuch ſummes of mony as they ſhall think meet, according to the quantity of ſuch their lands or tiſhes. And if any ſuch person doe denie to pay the ſame, or doe not pay the ſame (within foureteene dayes next after request thereof made by the Churchwardens, or one of them) then ſuch person ſhall forfeit for euery time five ſhillings, which (together with the ſumme aſſeſſed) ſhall be leuied by diſtreſſe, of the goodes & cattels of ſuch person, to be taken by the Churchwardens, or one of them, the ſame diſtreſſe to be ordered & vſed, as diſtreſſes taken for amerſements in Leets. And as well the ſaid ſummes as penalties, (if any of them be ſo leuied) ſhall be yearly by the Churchwardens, or one of them for the time being, deliuered by bills indented to two honeſt & ſubſtantiall perſons of the Pariſh, which ſhall be elected & appointed by the Churchwardens, and ſhall be named, The Diſtributers of the prouiſion for the deſtruction of noyſome fowle & vermine. And if the ſaid Churchwardens, ſix perſons, or Diſtributers, or any of them ſhall reſuſe, or make default in the execution of any part of this Act, contrary to the forme thereof, then

But
more
that
8. El.
cap. 11
out of
which
this
article
colle
ded
now
want
com
nuan
exp
red.
See
H. 8.

1. Tac.
6. 2

The duty of Churchwardens: 83

then such offender shall forfeit for every default v.li. the one moitie to the King, the other to him or them (using tillage yearly within the same Shire) that will sue therfore in any Court of Record.

The money assessed at the Quarter Session by the Iustices of Peace upon every Parish for the reliefe of disabled Souldiers, may be rated (in default of agreement of the parishioners amongst themselves) by the Churchwardens and Constables of the Parish, or the more part of them: and they may leuie such Rates by distresse & sale of the goods of such as refuse to pay their rates, rendering to the owner the ouerplus coming of such sale: and the Churchwardens must collect and pay ouer to the high Constable, in whose diuision such Parish is, every such summe ten daies before every Quarter Session of the Peace, vnder the pain of xx.s. for every default thereof.

For the rest of the office of the Churchwardens concerning this matter, see afterward in the duty of Distributers. See also in Constables, Art. 26. for the Gaole mony to bee leuied by Churchwardens.

The Constables & Churchwardens omitting their duty in leuying the penalties of Anne-keepers, &c. suffering any to remaine tipling in their houses, or selling Ale & Beere, otherwise than

84 The duty of Churchwardens.

by the Statute is appointed: or neglecting by 20. dayes to certifie the default of distresse in offenders against this Act, doe thereby forfeit for euery such default 40.s. to the Poore. Whereof see before in Constables, &c. 53.

14 If any shall haue or keepe any Greyhound for coursing of Deere or Hare, or setting dogge, or dogs, or net, or nets to take Pheasants or Partridges contrary to this statute of 1. Iac. ca. 27. the Churchwardens where the offence shall be committed, or the party apprehended, are in cases therein mentioned to receiue to the vse of the Poore of the Parish, 40.s.

15 The Churchwardens and Constables of euery Towne, Parish, or Chapel, or some one of them are yearly to present at the Quarter Sessions the monthly absence from Church of Popish Recusants, and their childrens names aboue nine years old, and their age if they can, and the names of their seruants, vpon paine of 11.s. And if such Recusant vpon that presentment be indicted & conuicted, they are to haue a reward of 11. s. of such Recusants goods. See in Constables, &c. 56.

16 The Churchwarden may by Warrant from one Justice of Peace, leuie to the vse of the poore, by distresse & sale of the offenders goods, rendering the ouerplus to such offender, 12.d. for euery default

Deere,
Hare,
Pheasant,
Partridge.

Present
the absence
from
Church of
Popish
Recusants.

Repaire to
Church.

1. Iac. ca. 27.

3. Iac. ca. 4.

3. Iac. ca. 1.

The duty of Churchwardens. 85

default in not repairing to Church every Sunday, according to the Statute of 1. El. ca. 2. See before Art. 5.

3. Jac.
ca. 10.

17 Where an offender committed to Convey-
prison, hath not goods sufficient to de- ing of of=
fray the charge of conducting him th- fenders to
ther, the Constable and Churchwardens, prison,
& two or three of the Parishioners may
make an indifferent tare for the same.
Whereof see before in Constables 24.

21. Jac.
18.

18 Where a Clothier makes deceiva- Clothing
ble cloth by putting flockes, noyles,
thums, haire, or any other deceivable
matter into it, upon Warrant & Cer-
tificate thereof from any two or more
Justices of peace unto the churchwar-
dens, & Overseers of the Poore of the
parish where the same clothier dwells,
it shall be lawfull for the same Church-
wardens & Overseers, to leuie the for-
feiture of that offence (which by the sta-
tute of 21. Jac. 18. is five pounds for every
cloth so made) by distresse & sale of the
offenders goods, rendring unto him the
ouerplus; which forfeiture they are to
distribute unto the poore of the said Pa-
rish: And in defect of such distresse the
said Justices may commit the offender
to the Gaole, there to remaine untill
payment of the said forfeiture be made
unto the said Churchwardens and O-
verseers to the vse aforesaid; for which
they shal be accountable as they are for
other moneys, which they are to collect

the use of the Power by force of an Act of Parliament made in the 43. yeare of Eliz. cap. 2. See duties of Churchwardens. Art. 10.

Likewise two third parts of the for^{21. 16} feitures for want of length, breadth, or^{18.} weight of clothes limited by any former Statute now in force, shall be leuied, distributed, and accounted for, as the forfeiture aforesaid.

19 Again, for the Churchwardens power in leuying the penalties forfeited for keeping vnlicenced Alehouses, See duties of Constables, Art 34.

20 Lastly, for their authority in leuying the penalties forfeited for swearing and cursing, as also for profanation of the Lords Day, See duties of Constables, Art. 59. & 60.

The office of the Superuisors, Surueyors, or Orderers of the workes for amending of the Highways.



Upon the six dayes appointed for working in the Highwaies in such sort as is before declared in the first Article of the Churchwardens office, every person for every plot or land in tillage or pasture that he or they shall occupy in the same Parish, and every o^r ther

2. & 3.
P. & M.
ca. 8. S.
5. El.
cap. 1.
& 18.
El. ca.
10.

ther person keeping there a draught or plow, shall finde and send at euery day and place to be appointed for the amending of the wayes in the Parish as is aforesaid, one waine or cart furnished after the custome of the Countrey, with oren, horses, or other cattell, and all other necessaries meete to cary things conuenient for that purpose, & also two able men with the same, vpon paine of euery draught making default ten shillings. And euery other householder, and also euery cottager and labourer of that parish, able to labour, and being no hired seruant by the yeare, shall by themselves, or one sufficient labourer for euery of them, vpon euery of the said fixe dayes, worke and trauell in the amendment of the said Highwayes, vpon paine of euery person making default, to lose for euery day twelue pence. And if the carriages of the Parish, or any of them shall not be thought needfull by the Supervisors to be occupied vpon any of the said dayes, that then euery such person that should haue sent any such carriage, shall send to the said worke for euery carriage so spared, two able men, there to labour for that day, vpon paine to lose for euery man not so sent to the said worke xii. d. and euery person and carriage abouesaid, shall haue & bring with them such shouels, spades, picks, mattocks,

88 The office of Surueyors

mattocks, and other tooles and instruments, as they doe make their owne ditches and fences withall, & such as be necessary for their said worke. And all the said persons and carriages shall do and keepe their workes, as they shalbe appointed by the said Superuisors, or one of them, eight houres of euery of the said dayes, vnlesse they shall be otherwise licenced by the said Superuisors, or one of them.

From henceforth it shall and may be lawfull to all & singular Superuisor and Superuisors & Orderers of the works for the time being, for the amendment of the said highwayes, therunto elected and appointed, according to the Statute made in the second and third yeare of King Philip and Queene Mary, for the better reparation and amendment of the Highwayes within their seuerall Parishes and Limits, where they shall bee so made Superuisors (if it shall be so to them thought necessary) to take and carry away of the rubbish, or smallest broken stones of any Quarry or Quarries, lying or being within the Parish where they shal be Superuisors, without licence, controlment, or impeachment of the Owner or Owners, so much as by their discretions shall be deemed and iudged necessary to the amendment of the said wayes. And that for default of any such Quarry or Quarries

Quarries, it shall and may be lawfull
 for euery such Superuifor or Superui-
 lors, for the vse aforesaid, in the seue-
 rall grounds of any person or persons,
 being within the Parish and Limits
 where they shall be Superuifors, & nigh
 adioynning to the way or wayes where-
 in such reparations shall be thought
 necessary to be made, & wherein gra-
 uel, sand, or sinder is likely to be found,
 to digge, or cause to be digged for gra-
 uell, sand, or sinder, and likewise to ga-
 ther stones lying vpon any lands or
 grounds within the Parish, and meete
 to be vled to such seruice and purpose;
 therefore to take and carry away so
 much as by discretion of the said super-
 uifors shall be thought necessary to be
 imploied in the amendment of the said
 Highwayes. Provided alwayes, that
 it shall not be lawfull to any such Su-
 peruifor or Superuifors, by vertue of
 this act, to cause any rubbish to be dig-
 ged out of any Quarry or Quarries,
 but onely shall extend to such rubbish
 as shall be found there ready digged by
 the owner or owners of the said Quar-
 ry or Quarries, or otherwise by his or
 their licence and commandement, nor
 shall not extend to giue authority to a-
 ny Superuifor or Superuifors, to digge
 or cause to be digged any grauell, sand,
 or sinder in the house, garden, orchard,
 or meadow, of any person or persons,
 nor

nor that it shall be lawfull by this Act to any such Superuisor or Superuisors to cause any more pits to be digged for grauell in any seuerall or inclosed ground, then one only, and that the same pit or hole so digged for grauell, as is aforesaid, shall not by any way be in breadth or length aboue ten yards at the most. And that euery such Superuisor as shall cause any such pit to be made and digged for grauell, sand, or sinder, as is aforesaid, shall within one month next after any such digging or pit made, cause the same to be filled and stopped vp with earth, at the cost and charge of the Parishioners, vpon paine to forfeit to the owner & owners of the soile, wherein any such pit shall be made and digged, for euery default five markes.

From henceforth euery such Superuisor and Superuisors, as aforesaid, shall by force of this Act, within the parish or limits where he or they shall be Superuisors, haue full power and authority to turne any such water course, or spring of water, being in any of the said Highwayes, into any ditch or ditches, of the seuerall ground or soyle of any person or persons whatsoever, next adioyning to y^e said waies, in such manner and forme, as by the discretions of the said Superuisors shall bee thought meetest and most conuenient. Such

For amending Highwayes. 91

Such Superviso^r or Superviso^{rs} for the time being, within one month next after default or offence made, done, or committed by any person or persons contrary to the provision, purport, and true meaning of the Statute made concerning Highwayes, in the second and third yere of K. Philip and Quene Mary, shall present every such default or offence to the next Justice of Peace for the time being, upon paine to forfeit for every such default and offence, in such sort not by them presented, xl.s.

Every person or persons (except such as shall dwell in the city of London) that shall be assessed to the payment of any subsidy to his Maiesty to v.l. in goods, or xl.s. in lands, or above, during all such time as he shall stand so assessed, & not altered, & being none of the parties chargeable for the amendment of highwayes by any former law, but as a cottager, shall find two able men yerly to labour in the highwayes, at such daies & times, as by the severall Stat. thereof are limited and appointed. And every other that hereafter shall occupy a plowland in tillage and pasture, lying or being in severall parishes, shall be chargeable to the making of the wayes within the parish where he dwelleth, as far forth, and in such manner and forme, as any person having a plowland in any one parish, is, or ought to be chargeable, by reason

reason of the said former Statutes, or either of them. And euery perso or persons, occuppyng and keeping in his or theirlands or possessions seuerall or diuers plowlands, as aforesaid, in seuerall or diuers Townes, shall be charged to finde in each Towne or Parish (where the plowlands being in his occuppyng doe lie) one cart, waine, tumbrell, dung pot, or court sleds, carres, or drags, furnished for the amendement & repairing of the Highways, within the seuerall Parishes where the said plowlands doe lie, in such maner & forme, as if he or they were a Parishioner dwelling within the Parishes, where the same seuerall plowlands doe lie.

Euery person or persons, that shall not repaire, ditch, or scowre any haves, fences, ditches, or hedges, adioynning to any highway, or common fairing way, or shall not cut downe or keepe low all trees and bushes growing in, or next adioynning to any the said wayes, according to the true intent and meaning of the Act made in the fifth yere of the late M. Eli. raigne, for euery offence committed therein, contrary to the true intent thereof, shall forfeit & lose for euery default x.s. And all and euery person and persons, that shall occupy any lands adioynning to the ground, so adioynning to any such highway, or common fairing way, where any ditch-
ing

ing or scowring should or ought to bee, as aforesaid, shall from time to time, as need shall require, ditch & scowre in his or their ground so adioyning, wherby the water conueyed from the said highway, or common fairing way, ouer the ground next adioyning, may haue passage ouer the said ground, so next adioyning to that ground, vpon paine of forfeiture for every time so offending, for every Rodd not so ditched and scowred 12.d.

No person or persons, hauing any ground by lease, or otherwise adioyning to any highway, or common fairing way, leading to any Market Towne, shall cast or scowre any ditch, & throw, or lay the soile thereof into the highway, and suffer it to lye there by the space of six moneths, to the annoyance of the said highway or common fairing way, vpon paine of forfeiture for every load of soile, so cast into the highway, or common fairing way, in ditching or scowring, 12.d. And where any heretofore haue bene so cast into the highway, or common fairing way, that there is a banke betwene the said way and the ditch, it shall be lawfull for the Surueyors and workmen, by the laws and Statutes of this Realme, appointed for the amendment of the said wayes, to make sluices or other devices by their discretions, to conuey the water

ter out of the said way into the ditch: any law, right, interest, custome, or vsage to the cōtrary notwithstanding.

Euery penalty, summe, or summes of money forfeited for any cause within the Statute, shall be leuied in euery parish by the Surueyors of the wayes within that parish for the time being, by distresse, & sale of distresse, in maner and forme as fines or amerciaments in Leetes haue bene vsed, and the money so leuied to be imployed vpon the highway or common fairing way, where the offence was committed. And if the Surueyors shall not, or will not leuie and imploy the same within one yeare after the offence so committed, that then the said summe or summes, forfeiture or forfeitures, shall be leuied in forme aforesaid, by the Constables or Churchwardens of the towne or parish where the worke ought to be done in the highway (as is aforesaid) and that he or they so leuying any of the said penalties or forfeitures, shall make and yeld such account as is appointed in the before recited Statutes, or either of them.

Wealdish
wayes.

In the Weald of Kent, Suffex, and Surrey, the Surueyors within the Parishes where the highwaies shal be most annoyed, shall (in default of appointment by the Iustices of Peace) assigne and appoint in what places of the highwaies

waies there, sinder, grauell, stone, or chalke, (to be carried by the occupiers of Iron workes) shall be laied and bestowed, vnder the paine of xl.s. of euery such Suruey or for euery such default, and they shall make demand of the forfeitures of money to be payd in default of such carriages: and present euery such default of carriage or payment at the next Quarter Session of the county vpon like paine of xl.s. for euery default by them.

The office of the Distributers of the provision for the destruction of noysome Fowle and Vermine.



These Distributers being chosen, and hauing money (as is before shewed in the ii. Article of the Churchwardens office) shall giue & pay of the same money so to them deliuered, to euery person that shall bring to them any heads of old Crowes, Choughs, Pyes, or Rooks taken within the seuerall Parishes, for the heads of euery three of them a peny: and for the heads of euery sixe young Crowes, Choughes, Pyes, or Rokes taken, as is aforesaid, a peny; and for euery sixe egges of any of them vnbroken, a peny: and likewise for euery 12. Stares heads a peny.

All

All which said heads and egges, the said Distributers in some conuenient place shal keepe, and shall euery month at the least bring forth the same befoze the said Churchwardens and Taroꝝ, oꝛ thꝛee of them, and then and there to them shall make a true account in wꝛiting, what money they haue laid forth and paid foꝛ such heads and egges & foꝛ the heads of such other rauenous birds and vermine, as are hereafter in this Act mentioned: that is to say, foꝛ euery head of Merton, Hawkes, Fursekite, Goldkit, Buzzard, Scag, Cormozant, oꝛ Kingtaile, 2.d. & foꝛ euery two egges of them, a peny: foꝛ euery Iron oꝛ Dispraves head, 4.d. foꝛ the head of euery Woodwall, Pie, Jay, Kauen, oꝛ Kite, a peny: foꝛ the head of euery bird, which is called the kings fisher, a peny: foꝛ the head of euery Bulfinch, oꝛ other bird, that deuoureth the blouth of fruit, one peny: foꝛ the heads of euery fore oꝛ grey 12.d. & foꝛ the head of euery Fitchew, Polcat, Weasell, Stote, Faire, Badger, oꝛ Wildcat, a peny; foꝛ the heads of euery Otter oꝛ Hedghog, 2.d. foꝛ the heads of euery 3. Kats, oꝛ 12. Dice a peny: foꝛ the heads of euery moldwarp, oꝛ Mant, an halfe peny; foꝛ the heads of euery which birds and vermine last mentioned, the last Distributers shal likewise pay & giue to the bringer of them, foꝛ euery head killed and taken within their

their senerall parish, as before is limited, and shal keepe the same to be shewed forth vpon their account, in manner and forme as is aforesaid. All which said heads and egges shall be forthwith after such account made in the presence of the said Churchwardens and Taroꝝ, oꝛ of thꝛe of them, burned, consumed, oꝛ cut in sunder.

And if vpon any account to be made in the end and determination of the office of any such distributers, it shall appere that any sum of mony is remaining in the hands of the said distributers, oꝛ any of them, then the same shal be by bill indented, as is aforesaid, deliuered ouer to such persons as be, oꝛ shal be elected to the same office, foꝛ the yeare next following, by them to be distributed, as is aforesaid. This shall not in any wise extend, to giue any liberty oꝛ authority to any person oꝛ persons, to use oꝛ exercise any meanes oꝛ engine foꝛ the destruction of crows, oꝛ rooks, choughes, oꝛ other the vermine aforesaid, in any place oꝛ places, to the disturbance, let, oꝛ destruction of the building oꝛ breeding of any kind of halwkes, hernes, eagres, paupers, swans, oꝛ shouelers: to the hurt and destruction of any doves, doue-houses, deere, oꝛ warren oꝛ cornies, noꝛ extend to giue oꝛ appoint any summe oꝛ summes of money to be giuen, paid, oꝛ distributed to any person

or persons, for the head or heads of any buzzard, ring-taile, herne, polcat, fitchew, or fote, taken in any parke, warren, or ground, imployed to the maintenance of any game of conies, or to any staves taken in dove-houses, nor to the killing or bringing the head of any kite or rauen, killed in any city or town corporate, or within two miles of the same.

THE CONCLUSION.

ANd here for Conclusion it will not be amisse to annexe vnto this Treatise the effect of two late Statutes, made for ease in pleading against troublesome and contentious suites, prosecuted against Constables, Churchwardens, &c. for the lawfull execution of their office : the first of which Statutes, made in the seventh yeare of the raigne of our late Soueraigne Lord King Iames, followeth in thele words.

For ease in pleading against many causelesse & contentious suites, which haue bene, and daily are commenced and prosecuted against Iustices of Peace, Maiors, or Bailiffes of Cities, and Townes Corporate, Head-borowes, Portreeues, Constables, Tythingmen, Collectors of Subsidies and Fiftēnes, who for due execution of their office haue been troubled and molested,

lested by euill disposed and contenti-
 ous persons, to their great charge and
 discouragement in doing of their of-
 fices: Be it therefore enacted, &c. That
 if any Action, Bill, Plaint, or Suite by
 on the Case, Trespasse, Battery, or
 false Imprisonment, shall be brought af-
 ter forty daies next after the end of this
 Session of Parliament, in any of his
 Maiesties Courts at Westminster, or
 elsewhere, against any Justice of
 Peace, Maior or Bailiffe of City, or
 Towne corporate, Headborow, Port-
 reue, Constable, Tythingman, Col-
 lector of Subsidie or Fifteenes, for or
 concerning any matter, cause, or thing
 by them or any of them done, by vertue
 or reason of their or any of their office
 or offices, That it shall be lawfull to
 and for euery such Justice of Peace,
 Maior, Bailiffe, Constable, or other
 Officer or Officers before named, and
 all others which in their aide or assi-
 stance, or by their commandement shal
 doe any thing touching or concerning
 his or their office or offices, to pleade
 the Generall Issue, that he or they are
 not guilty, and to giue such speciall
 matter in euidence to the Jury which
 shall trie the same, which speciall mat-
 ter being pleaded, had beene a good and
 sufficient matter in Law, to haue dis-
 charged the said Defendant or Defen-
 dants of the Trespasse, or other matter

laid to his or their charge: And that if the verdict shall passe with the said Defendant or Defendants in any such action, or the Plaintiff or Plaintiffs therein become Pursuite, or suffer any discontinuance thereof, That in every such case the Justices or Justice, or such other Judge before whom the said matter shall be tried, shall by force and vertue of this Act allow unto the Defendant or Defendants his or their double costs, which he or they shall have sustained by reason of their wrongfull veration in defence of the said Action or Suite: for which the Defendant or Defendants shall have like remedy, as in other cases where costs by the lawes of this Realme are given to the defendants. And this Act to continue for seven yeers, and from thence to the ende of the next Parliament after the said seven yeers.

The other of these two Statutes was made in the 21. yeare of our said late Soueraigne Lord King Iame, the tenour whereof is as followeth.

Be it enacted, &c. That the said Act (viz. of 7. Iac. c. 5.) shall from and after the end of this present Session of Parliament be perpetuall, and have continuance for ever. And that all Churchwardens, & all persons called Swozemen, executing the office of Churchwardens, and all Overseers of the Poore,

Peace, and all others, which in their aide and assistance, or by their commandement, shal doe any thing touching or concerning his or their office or offices, shall hereafter be enabled to receiue, and haue such benefit and help by vertue of the said Act, to all intents, constructions, and purposes, as if they had bene specially named therein.

And whereas, notwithstanding the said Statute, the Plaintiffe is at liberty to lay his action, which he shall bring against any Justice of Peace, or other Officer in any forraigne Country, at his choice, which hath proued very inconuenient vnto sundry of the officers, and persons aforesaid, that haue bene impleaded by some contentious and troublesome persons in countries far remote fro their places of habitations.

Be it therefore enacted, &c. That if any Action, Bill, Plaint, or suite vpon the Case, Trespasse, Battery, or false Imprisonment, shall be brought after the end of this present Session of Parliament, against any Justice of Peace, Maior, or Bailiffe of Citie or Towne Corporate, Headborough, Portreeue, Constable, Tythingman, Collector of Subsidy or Fiferenes, Churchwardens, and persons called Swornemen, executing the office of Churchwarden, or ouerscers of the Peace, and their deputies, or any of them, or any other, which

which in their aide or assistance, or by their commandement, shall doe any thing touching or concerning his or their office or offices, for or concerning any matter, cause, or thing by them, or any of them done, by uertue or reason of their, or any of their office or offices, That the said Action, Bill, Plaint, or Suite shall be laid within the Countie, where the trespassse or fact shall be done or committed, and not elsewhere: And that it shall be lawfull to & for all, and euery person and persons aforesaid, to pleade thereunto the Generall Issue, that hee or they are not guilty, and to giue such speciall matter in euidence to the Jury, which shall trie the same, as in, or by the said former Act is limited or declared: And that if vpon the tryall of any such Action, Bill, Plaint, or Suite, the Plaintiffe or Plaintiffes therein, shall not proue to the Jury, which shall trie the same, That the Trespassse, Battery, Imprisonment, or other fact, or cause of his, her, or their such Action, Bill, Plaint, or Suite, was or were had, made, committed, or done within the Countie wherein such Action, Bill, Plaint, or Suite, shall be laid, That then in euery such case the Jury which shall trie the same, shall finde the Defendant and Defendants in euery such Action, Bill, Plaint, or Suite, not guilty, without hauing any regard or respect

respect to any evidence given by the
Plaintiffe or Plaintiffes therein, tou-
ching the Trespasse, Battery, Impri-
sonment, or other cause, for which the
same Action, Bill, Plaint, or Suite
is or shall be brought: And if the ver-
dict shall passe with the Defendant or
Defendants in any such Action, Bill,
Plaint, or Suite, or the Plaintiffe or
Plaintiffes therein become nonsuite,
or suffer any discontinuance thereof,
That in every such case, the Defen-
dant or Defendants shall have such
double costs, and all other advantages
and remedies, as in, and by the said
former act is limited, directed,
and provided.

FINIS.
